

Chapter 4

OFFENSES

General

4.005 Offenses - Outside City Limits. Where permitted by Oregon law, an act made unlawful by this Code shall constitute an offense when committed in an area belonging to the city, even though outside the corporate limits of the city.

4.010 Parties to Offenses.

- (1) A person is guilty of an offense if it is committed by that person's own conduct or by the conduct of another person for which that person is liable, or both.
- (2) A person is liable for the conduct of another person constituting an offense if:
 - (a) The person is made liable by the ordinance defining the offense; or
 - (b) With the intent to promote or facilitate the commission of the offense the person:
 1. Solicits or commands such other person to commit the offense.
 2. Aids or abets or agrees or attempts to aid or abet such other person in planning or committing the offense.
 3. Having a legal duty to prevent the commission of the offense fails to make an effort the person is legally required to make.
- (3) In any prosecution for an offense in which liability is based upon the conduct of another person pursuant to subsection (2) of this section, it is no defense that:
 - (a) Such other person has not been prosecuted for or convicted of any offense based upon the conduct in question or has been convicted of a different offense; or
 - (b) The offense, as defined, can be committed only by a particular class or classes of persons to which the defendant does not belong, and the defendant is for that reason legally incapable of committing the offense in an individual capacity.
- (4) Except as otherwise provided by the ordinance defining the offense, a person is not liable for conduct of another constituting an offense if:
 - (a) The person is a victim of that offense.
 - (b) The offense is so defined that the person's conduct is necessarily incidental thereto.

ANIMAL REGULATIONS

4.330 **Animal Control - Definitions.** For purposes of sections 4.330 to 4.500 of this chapter, the following words and phrases mean:

Animal. Any nonhuman mammal, bird, reptile, amphibian or fish.

Animal agency. Any public or private organization whether called a pound, kennel, shelter, society, or the like, that controls, shelters, cares for or disposes of dogs and cats as all or a part of the purposes of the organization. Animal agency does not include a veterinarian in private practice. Animal agency does include the agency's officers, agents and employees when acting in the name of or on behalf of the agency.

Animal control officer. A city community service specialist or person employed by the Animal Regulation Authority and empowered to enforce provisions of these animal regulations, including issuing citations pursuant to section 2.770 for violations of sections 4.330 to 4.490.

Animal regulation authority. The animal control enforcement authority appointed by the city manager to enforce and administer the provisions of sections 4.330 to 4.490.

Animal technician. A person performing duties under the supervision of a veterinarian and

- (a) is an animal technician as defined in ORS 686.350, or
- (b) has received a certificate in animal technology or a comparable certificate from a recognized college or university approved by the Oregon State Veterinary Medical Examining Board or by the American Veterinary Medicine Association.

At large. A dog or other animal inside the corporate limits of the city, off the premises of the owner, and not under complete control by adequate leash. A dog in field training or a dog in an area designated as a dog-off-leash area within a city park, is exempted unless the dog causes personal injury or property damage off the premises of the owner. This exception does not apply to any dog identified as a potentially dangerous dog under section 4.435 to 4.445.

Barking dog. A dog which persistently barks or howls and thereby unreasonably deprives a person of peace and quiet.

Commercial breeding kennel. A place of business for the breeding and/or selling of dogs. The term is not intended to include an animal hospital or noncommercial kennel.

Commercial kennel. A place of business where dogs are boarded. No more than two of the dogs shall be used for breeding. The term is not intended to include an animal hospital or noncommercial kennel.

Continuous annoyance. Permit any animal to cause annoyance, alarm or disturbance for more than 15 continuous minutes at any time of the day or night, be it repeated barking, whining, screeching, howling, braying or other like sounds which can be heard beyond the boundary of the owner's property.

Dangerous animal. Any animal, other than a dog, which has the propensity to bite or attack any person without provocation and the capacity to inflict serious harm on that person. It shall be presumed that any animal, other than a dog, which has injured a human being on two occasions without provocation is a dangerous animal.

Director. The administrative head of the animal regulation authority, or the administrative head's designee.

Dog. Any mammal of the Canidae family.

Dog-off-leash area. Any area within a city park designated by the city manager or the city manager's designee as an area in which dogs may be allowed to run off leash.

Dog owner. Any person who is the licensed owner of a dog, or who has a right of property in a dog, or who harbors a dog or who has it in their care, possession, custody or control or who knowingly permits a dog to remain on any premises occupied by the person. Except for purposes of sections 4.425 and 4.430, owner does not include veterinarians or commercial kennel operators temporarily maintaining on their premises for a period of less than 30 days dogs owned by other persons. Any person, except a veterinarian or commercial kennel operator, who resides where a dog is kept, harbored or cared for shall be presumed to be the owner of that dog. This presumption may be rebutted by proof that such person has no property right in the dog, is not the licensed owner, and is neither harboring nor caring for the dog.

Euthanasia. Putting an animal to death in a humane manner by a licensed veterinarian or a certified euthanasia technician.

Field training. A dog on exhibition in a dog show or a dog in obedience or field training exercises which is out of general automobile traffic and under the direct supervision of a handler who has in the handler's possession proof of obedience title or certificate of obedience for the animal in question.

Eugene Code

Good animal husbandry. Includes, but is not limited to the dehorning of cattle, the docking of horses, sheep or swine, and the castration or neutering of livestock, according to accepted practices of veterinary medicine or animal husbandry.

Hearings official. A person appointed by the city manager to hear and determine matters as provided in sections 4.330 to 4.490.

Industrial zone. Property zoned as "industrial" by Chapter 9 of this Code.

Leash. Any humane device constructed of rope, leather strap, chain or other sturdy material not exceeding eight feet in length, being held in the hand of a person capable of controlling the animal to which it is attached.

Livestock. Includes but is not limited to any cattle, llamas, sheep, horse, goat, swine, fowl, and any fur-bearing animal bred and maintained commercially or otherwise within pens, cages and hutches.

Muzzle. A device constructed of strong, soft material or metal that complies with specifications to be adopted 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.

Neutered. The removal of the ovaries and uterus, ovarian hysterectomy, in female dogs. The removal of the male gonads in male dogs. Any other method of neutering a dog which is certified and performed by a licensed veterinarian.

Noncommercial dog kennel. An establishment or premises where four or more dogs, over six months of age, are kept or maintained, whether by owners of the dogs or by persons providing facilities and care, and whether or not for compensation, not including the temporary keeping of one additional dog for up to 6 months in any 12-month period. No more than two of the dogs shall be used for breeding. The term does not include any animal hospital. For purposes of this definition, if the "premises" consists of a lot that contains a main dwelling and a secondary dwelling unit, the "premises" means the lot.

Pet or domestic animal. Any animal that is owned or possessed by a person, other than livestock.

Physical injury. Impairment of physical condition or substantial pain.

Police animal. A dog or horse used in police work under the control of a peace officer as defined in ORS 161.015, who has successfully qualified in the care and use of a police animal as required by state statutes, whether or

Eugene Code

not the animal is being so used at the time in question. Unless specifically referred to therein, neither a police service animal nor the officer using it is subject to any of the restrictions or regulations contained in sections 4.330 to 4.495 of this chapter.

Possess. To have physical possession or otherwise to exercise dominion or control over property.

Potentially dangerous dog. A dog that has been found to engage in behavior specified in section 4.435.

Private practice of veterinarian medicine. The private practice of veterinarian medicine has its ordinary meaning, and includes private animal hospitals or clinics under the supervision or control of a veterinarian. The phrase also includes the agents and employees of a private animal hospital and clinic when acting in the name of or on behalf of such hospital or clinic.

Put to death. The taking of an act or series of actions for the purpose of intentionally causing death.

Secure enclosure. A structure in which an animal is confined such that the animal does not have access to humans or other animals. The structure will not be less than eight feet long, four feet wide and five feet tall. If the floor is not concrete, the outside walls must extend into the ground not less than one foot to prohibit the digging out of the animal. The top of the structure must be covered.

Serious physical injury. Physical injury 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.

Veterinarian. A person licensed by the State of Oregon to practice veterinarian medicine.

Watchdog. A dog confined at a business for the exclusive use of protecting people or property of said business.

(Section 4.330, formerly Section 4.355, renumbered by Ordinance No. 19461. Section 4.355 amended by Ordinance No. 17472, enacted November 12, 1975; Ordinance No. 18640, enacted June 9, 1980; Ordinance No. 18730, enacted December 10, 1980; Ordinance No. 18945, enacted April 14, 1982; Ordinance No. 19171, enacted August 8, 1983; Ordinance No. 19315, enacted March 11, 1985; renumbered and amended by Ordinance No. 19461, enacted April 13, 1987; Ordinance No. 19505 enacted October 12, 1987; Ordinance No. 19542, enacted March 16, 1988, effective March 26, 1988; Ordinance No. 19587, enacted December 12, 1988; Ordinance No. 19615, enacted May 22, 1989; Ordinance No. 19686, enacted May 14, 1990; Ordinance No. 19792, enacted August 5, 1991; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; Ordinance No. 20417, enacted August 11, 2008, effective June 12, 2009.)

4.335 Animal Abuse.

- (1) Animal abuse in the second degree. A person commits the offense of animal abuse in the second degree if, except as otherwise authorized by law, the person causes physical injury to an animal.
- (2) Animal abuse in the first degree. A person commits the offense of animal abuse in the first degree if, except as otherwise authorized by law, the person:
 - (a) Causes serious physical injury to an animal; or
 - (b) Cruelly causes the death of an animal.
- (3) Any practice of good animal husbandry is not a violation of this section.

(Section 4.335 added by Ordinance No. 19461, enacted April 13, 1987; amended by Ordinance No. 19505, enacted October 12, 1987; and Ordinance No. 19587, enacted December 12, 1988.)

4.340 Animal Neglect.

- (1) As used in this section, "minimum care" means care sufficient to preserve the health and well-being of an animal and, except for emergencies or circumstances beyond the reasonable control of the owner, includes, but is not limited to, the following requirements:
 - (a) Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight.
 - (b) Open or adequate access to potable water in sufficient quantity to satisfy the animal's needs. Snow or ice is not an adequate water source.
 - (c) In the case of pet or domestic animals, access to a barn, dog house or other inclosed structure sufficient to protect the animal from wind, rain, snow or sun and which has adequate bedding to protect against cold and dampness.
 - (d) Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease.
 - (e) Pet or domestic animals shall not be confined to an area without adequate space for exercise necessary for the health of the animal or which does not allow access to a dry place for the animal to rest. The air temperature in a confinement area must be suitable for the animal involved. Confinement areas must be kept reasonably clean and free from excess waste or other contaminants which could affect the animal's health.
- (2) Animal neglect in the second degree. A person commits the offense of animal neglect in the second degree if, except as otherwise authorized by law, the person fails to provide minimum care for an animal in such person's custody or control.
- (3) Animal neglect in the first degree. A person commits the offense of animal neglect in the first degree if, except as otherwise authorized by law, the person:
 - (a) Fails to provide minimum care for an animal in such person's custody or control; and

- (b) Such failure to provide care results in serious physical injury or death to the animal.

(Section 4.340 changed to 4.460, and new Section 4.340, added by Ordinance No. 19461, enacted April 13, 1987; amended by Ordinance No. 19505, enacted October 12, 1987; and Ordinance No. 19587, enacted December 12, 1987.)

4.345 Exemption for Livestock, Rodeo Animals and Commercially Grown Poultry. Unless gross negligence can be shown, the provisions of sections 4.335 and 4.340 shall not apply to the treatment of livestock being transported by owner or common carrier, animals involved in rodeos or similar exhibitions or commercially grown poultry.

(Section 4.345, formerly "Cruelty to Animals," changed by Ordinance No. 19461, enacted April 13, 1987.)

4.350 Animal Abandonment.

- (1) A person commits the offense of animal abandonment if the person leaves a domesticated animal at a location without providing for the animal's continued care.
- (2) It is no defense to the offense defined in subsection (1) of this section that the defendant abandoned the animal at or near an animal shelter, veterinary clinic or other place of shelter if the defendant did not make reasonable arrangements for the care of the animal.

(Section 4.350 changed to Section 4.485, and new section 4.350 added by Ordinance No. 19461, enacted April 13, 1987; amended by Ordinance No. 10505, enacted October 12, 1987; and Ordinance No. 19587, enacted December 12, 1987.)

4.353 Forfeiture of Rights in Mistreated Animal; Costs; Disposition of Animal.

- (1) In addition to and not in lieu of any other penalty it may impose, a court may require a defendant convicted under 4.335 to 4.350 to forfeit any rights of the defendant in the animal subjected to abuse, neglect or abandonment, and to repay the reasonable costs incurred by any person or agency prior to judgment in caring for each animal subjected to abuse, neglect or abandonment.
- (2) When the court orders the defendant's rights in the animal to be forfeited, the court may further order that those rights be given over to the animal regulation authority for further disposition in accordance with this chapter. This subsection shall not constitute or authorize any limitation upon the right of the animal regulation authority. A transfer of rights under this subsection constitutes a transfer of ownership.

(Section 4.353 added by Ordinance No. 19461, enacted April 13, 1987; and amended by Ordinance No. 19505, enacted October 12, 1987.)

4.360 Entry Onto Private Land. Any animal control officer or any peace officer shall have the privilege of entering onto private land in the course of the officer's duties in enforcing the provisions of this code, but such officer shall

not enter into any building or dwelling without legal authorization or permission of the owner or occupant of the premises.

(Section 4.360, formerly section 4.445 renumbered by Ordinance No. 19461. Section 4.445 added by Ordinance No. 19171, enacted August 8, 1983, renumbered and amended by Ordinance No. 19461, enacted April 13, 1987.)

4.365 **Care of Stray Animals.** All persons must turn over to the animal regulation authority stray animals immediately after the person exercises authority over the animal or must notify the animal regulation authority of the description of the animal and the address where the animal is being kept and retain possession of the animal for three days after the animal regulation authority is so notified.

(Section 4.365 added by Ordinance No. 19461, enacted April 13, 1987.)

4.370 **Impoundment of Animals.**

- (1) Any peace officer or animal control officer may impound an animal that is in violation of this code.
- (2) The animal regulation authority shall impound an animal if the owner of the animal has not posted bail or paid a fine for a violation of this code imposed by the municipal judge. For any animal so seized the notice and disposition of the animal shall be in the same manner as for licensed dogs under the provisions of this code.
- (3) Any person whose property has been trespassed upon by any dog in violation of this code or who observes a dog trespassing upon the property of another, or who observes a dog killing, chasing or injuring livestock, may immediately apprehend that dog and hold the dog until delivery to an animal control officer, or to any peace officer. Any person who so impounds a dog must immediately notify the animal regulation authority of such impoundment. No person who has impounded a dog under this subsection shall fail to notify the animal regulation authority immediately.
- (4) If an animal control officer or a peace officer has probable cause to believe that a dog is a potentially dangerous dog level 1, 2, 3, or 4, then he/she may impound the dog. If the officer has probable cause to believe that the dog is a potentially dangerous dog level 5, then he/she shall impound the dog. The officer shall hold the dog until a hearing on the classification is held pursuant to section 4.440, or until the dog is to be redeemed or disposed of pursuant to sections 4.385 and 4.390 of this chapter.
- (5) If an animal control officer or a peace officer has probable cause to believe that any animal which is in an unoccupied motor vehicle may be in danger of dying, then they may enter the motor vehicle and impound the animal and leave a notice in the vehicle where the animal may be reclaimed.
- (6) If there is probable cause to believe that any animal is being subjected to treatment in violation of 4.335 to 4.350, a peace officer, after

obtaining a search warrant in the manner authorized by law, may enter the premises where the animal is being held, provide food and water and impound such animal. If after reasonable search the owner or person having custody of such animal cannot be found and notified of the impoundment, such notice shall be conspicuously posted on such premises and within 72 hours after the impoundment such notice shall be sent by certified mail to the address, if any, at which the animal was impounded.

(Section 4.370 changed to 4.465, and new section 4.370 added by Ordinance No. 19461, enacted April 13, 1987; and amended by Ordinance No. 19505, enacted October 12, 1987.)

4.375 **Failure to Surrender Animal.** No person shall fail to surrender an animal to a person identifiable as an animal control officer or a peace officer upon their demand, so that the animal can be impounded or quarantined as provided for by this chapter.

(Section 4.375 changed to section 4.395, a new section 4.375 added by Ordinance No. 19461, enacted April 13, 1987; and amended by Ordinance No. 19505, enacted October 12, 1987.)

4.380 **Resisting an Animal Control Officer or Peace Officer.**

- (1) "Resists" as used in this section means the use or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person.
- (2) No person shall intentionally resist someone known by them to be a peace officer or an animal control officer who is enforcing any provision of this chapter.

(Section 4.380 added by Ordinance No. 19461, enacted April 13, 1987; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

4.385 **Impounding Regulations and Disposition of Impounded Animals.**

- (1) The animal regulation authority shall keep any animal impounded for the period of time herein specified. A daily record of such animals shall be kept at the place of impoundment and shall be made available to the public. The animal regulation authority shall dispose of such animals in accordance with the following provisions:
 - (a) An unlicensed dog or a dog for which the owner is unknown which has not been redeemed within 72 hours after impoundment may be sold, adopted or destroyed.
 - (b) Except as provided in subsection 4.385(1)(c), a licensed dog for which the owner is known which has not been redeemed within 120 hours of notification of the owner by telephone contact or by mailing or by posting at the owner's dwelling the impoundment notice, may be sold, adopted or destroyed.
 - (c) A licensed potentially dangerous dog for which the owner is known may be destroyed if the owner, after receiving notice of impoundment as provided in subsection 4.385(2):

Eugene Code

1. Fails to notify the animal regulation authority within 120 hours of the owner's intent to redeem the dog; or
 2. Fails to redeem the dog or appeal the classification within ten days.
- (d) Except when state law mandates a different disposition procedure, all animals other than dogs shall be disposed of as provided in subpart 4.385(1)(a).
- (e) Notwithstanding the previous subsections, abandoned or unwanted litters of animals aged two months or less may be destroyed immediately or, in the alternative, adopted or sold to any person. This subsection does not apply to litters impounded following a search of premises as provided in subsection 4.370(6).
- (2)** Except as provided in subsection 4.385(1), the animal regulation authority shall notify the owner by telephone or by the mailing of an impoundment notice within 24 hours after impoundment that the animal will be destroyed within 120 hours after such notification. The impoundment notice shall advise the owner of the place where the animal is kept, the procedures required for the redemption of the animal, the fees for the impoundment, daily care and redemption, and the consequences of failure to redeem the animal.
- (3)** Any animal unclaimed within 24 hours of a court order authorizing the redemption or release shall be destroyed, adopted or sold.
- (4)** If an order is entered by the municipal judge or the hearings official for an animal to be destroyed, execution of the order may be stayed for up to five years from the date of said order, providing that the dog owner and the director, within ten days of the order, present an agreement for approval to the municipal judge or the hearings official signed by both parties and providing:
- (a) For restitution to be paid to the person injured, if applicable, including damages resulting from the injury to or destruction of livestock, and
 - (b) For safeguards that will help to ensure that the animal does not engage in such conduct again, including, but not limited to, requirements that the owner build a run for the animal before it is released, fence their yard or have the animal live elsewhere in a secure setting, and agree not to own any other animal on the property where the owner resides, and
 - (c) That if the animal is found in violation of the safeguards that have been imposed, that it may be immediately impounded by an animal control officer, a peace officer or any other person and destroyed by the animal regulation authority without a further hearing, unless the animal owner requests a hearing in writing to the animal regulation authority within 24 hours after the animal owner is notified that the animal is impounded. If the owner cannot be personally notified that the animal has been impounded, the animal may be destroyed four days after a notice

Eugene Code

of impound is mailed to the owner's last known address, unless the owner requests a hearing before then. The hearing will be limited to a determination as to whether the agreement has been violated.

- (5) If an order is entered by the municipal judge or the hearings official for an animal to be destroyed, execution of the order shall be stayed for ten days to allow the filing of a notice of appeal or a writ of review. In the event a notice of appeal is filed within ten days, the animal shall not be destroyed until the disposition of the appeal.
- (6) Notwithstanding the previous subsections, any animal given to the animal regulation authority by the owner for disposition may be destroyed immediately or, in the alternative, adopted or sold to any person. The owner shall pay a fee for handling the unwanted animal. For purposes of this section only, an owner is a person who has had the animal in their care, possession, custody, or control for six weeks or more.
- (7) Notwithstanding the previous subsections, certain sick or injured animals may be destroyed immediately pursuant to the provisions of section 4.420 of this code.

(Section 4.385 changed to 4.420, and a new section 4.385, formerly section 4.400 renumbered by Ordinance No. 19461. Section 4.400 amended by Ordinance 17472, enacted November 12, 1975; Ordinance No. 17741, enacted August 23, 1976, and Ordinance No. 18945, enacted April 14, 1982. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987; Ordinance No. 19505, enacted October 12, 1987; Ordinance No. 19587, enacted December 12, 1988; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

4.390 Impoundment - Redemption and Sale.

- (1) Redemption of an impounded animal shall be made by exhibiting satisfactory proof of ownership and by paying the following required fees and charges:
 - (a) Impoundment fee;
 - (b) Daily care fee;
 - (c) License and rabies vaccination fees, if required;
 - (d) Medical care fees, if required; and
 - (e) Potentially dangerous dog license fees, if required.
- (2) In addition to the requirements of subsection 4.390(1), a dog that has been classified as potentially dangerous shall not be released until the owner presents to the director sufficient evidence of compliance with the restrictions imposed by section 4.445. The owner shall have ten days from the time the owner receives the impoundment notice in which to comply with the potentially dangerous dog restrictions. No dog impounded because of level 5 behavior shall be released until the completion of any appeal requested by the owner of the dog pursuant to section 4.440.

Eugene Code

- (3) Impounded animals may be sold, adopted or destroyed after the applicable holding time.
- (4) When an animal is sold or adopted out by the animal regulation authority, the purchaser shall pay any required license and rabies vaccination fees.
- (5) No impoundment charge shall be made for an animal released after
 - (a) The municipal court's determination that no violation occurred.
 - (b) A potentially dangerous dog classification is successfully appealed.
- (6) No live animal shall be used, sold or given by the animal regulation authority for surgical or medical demonstration or research.
- (7) Except as otherwise provided, if after 72 hours an impounded animal cannot be sold, the animal regulation authority is authorized and empowered to destroy the animal by any humane method permitted under state law.
- (8) If an animal is adopted or sold from the animal regulation authority or from any other agency which accepts unwanted or abandoned animals, the owner must have the animal spayed or neutered within six months from the date of sale if the animal is too young to be spayed or neutered immediately. If an animal over six months old is adopted or sold by an agency which accepts unwanted or abandoned animals, the animal shall be spayed or neutered within one month after it is turned over to its new owner. The new owner shall not fail to comply with this subsection.
- (9) No person who is the owner of an animal shall fail to reclaim it from the animal regulation authority within the time specified in the notification that the animal is ready to be released.

(Section 4.390, formerly section 4.405. Section 4.405 amended by Ordinance No. 17472, enacted November 12, 1975, and Ordinance No. 18945, enacted April 14, 1982. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987; and Ordinance No. 19505, enacted October 12, 1987.)

4.395 Licenses, Fees and Exceptions.

- (1) Dog licenses.
 - (a) Every owner of a dog which has a set of permanent canine teeth or has attained the age of six (6) months, whichever event occurs first, shall immediately obtain a license for the dog. If the dog owner moves into the city and the owner's dog does not have a current dog license from another city or county, the owner must obtain a license within five days of moving into the city.
 - (b) Licenses shall be valid for one, two, or three years from the date of issuance or until the sale or gift of the dog, whichever first occurs.
 - (c) No license shall be issued until a certificate of vaccination for rabies, valid for the term of the license is presented to the dog control authority or duly authorized issuer.

Eugene Code

- (d) Dog owners shall renew the dog license before it becomes delinquent for as long as they own the dog.
 - (e) A license tag issued to a dog owner shall be attached securely to a collar or harness on the dog for which it is issued. If a license tag is lost, the owner may obtain a duplicate license tag upon satisfactory proof of loss and payment of the required fee.
- (2)** A dog license fee shall be charged in the amount established by the city manager pursuant to section 2.020 of this code. The fee is due and payable upon the issuance of the license. A person who purchases a kennel license does not have to license the individual dogs as long as they live at the kennel. Also, a person who purchases a license for a commercial breeding kennel need not also obtain a commercial kennel or noncommercial kennel license, and a person who purchases a commercial kennel license need not obtain a noncommercial kennel license if they choose to operate such a kennel.
- (3)** License Fees - Exceptions.
- (a) No license fee shall be required for any dog owned by a blind person who uses the dog as a guide. A license shall be issued for such dog upon proper proof of rabies vaccination and upon filing of an affidavit by the blind person showing such dog to come within this exemption. Such affidavit shall be filed with the animal regulation authority.
 - (b) Only as part of a publicized city-wide campaign to license dogs owned by residents of the city and for a period not to exceed 30 days, periodically the city manager may waive all or part of the neutered dog license fee required in subsection (2) of this section.
- (4)** After application upon a form to be provided by the animal regulation authority, a permit may be issued to the licensed owner of a dog to use that dog as a watchdog. The fee for such permit shall be in addition to the individual dog license fee.
- (5)** If a dog is classified as a potentially dangerous dog, the owner shall obtain a separate license for the dog as well as a regular dog license. The owner shall obtain the potentially dangerous dog license within ten days of the time the dog is classified and annually thereafter. The animal regulation authority shall issue or renew a potentially dangerous dog license provided:
- (a) The owner presents to the director sufficient evidence of compliance with the restrictions imposed by section 4.445; and
 - (b) The owner pays a potentially dangerous dog license fee in the amounts established by the city manager pursuant to section 2.020 of this code.
- (6)** If a dog owner has been fined or the dog owner's dog has been classified or registered in another state, county, or city because the dog engaged in the behaviors described in section 4.435, the owner shall notify the animal regulation authority of such classification, registration, or fine at the time the owner licenses the dog. If the director classifies

the dog pursuant to section 4.440, the owner shall meet the requirements of subsections (2) and (5) above except that the initial potentially dangerous dog license fee will be as established by the city manager pursuant to section 2.020 of this code for previously classified dogs.

(Section 4.395 formerly section 4.375, renumbered by Ordinance No. 19461. Section 4.375 amended by Ordinance No. 17472, enacted November 12, 1975; Ordinance No. 18835, enacted July 22, 1981; Ordinance No. 18945, enacted April 14, 1982; Ordinance No. 19315, enacted March 11, 1985; and Ordinance No. 19384, enacted April 28, 1986. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987; Ordinance No. 19505, enacted October 12, 1987; Ordinance No. 19587, enacted December 12, 1988; Ordinance No. 19588, enacted December 12, 1988, effective July 1, 1989; Ordinance No. 19799, enacted September 23, 1991; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

4.400 Kennel License.

- (1) No person shall operate a kennel, whether commercial or non-commercial, without the appropriate kennel license. Kennel licenses shall be valid from one year from the date of issuance.
- (2) No kennel license shall be issued under this section to anyone in nonconformity with chapter 9 of this code.
- (3) The following provisions shall govern revocation of licenses:
 - (a) Three or more violations of sections 4.330 to 4.490 of this chapter within a period of 12 calendar months shall result in a revocation of licenses granted under this section.
 - (b) Such revocation may occur after a hearing before the hearings official and after the licensee has been mailed a notice of a time to appear at least five days in advance of the hearing. Such notice shall include a general statement of the reasons for commencing the revocation proceedings.
 - (c) The decision of the hearings official shall be final.

(Section 4.400 changed to section 4.385, and a new section 4.400 added by Ordinance No. 19461, enacted April 13, 1987.)

4.403 Filing of Rabies Vaccination Certificate, Issuance of Tag.

- (1) Upon the rabies vaccination of any dog, the veterinarian performing the vaccination shall transmit a copy of the vaccination certificate to the Lane County Health Administrator.
- (2) The animal regulation authority shall be responsible for the administration of this section.
- (3) A rabies tag fee, and a tag replacement fee, may be established for those dogs required to be licensed pursuant to section 4.395 of this code, and the fees shall be set pursuant to section 2.020 of this code. Upon receipt of the fee, a serial-numbered rabies tag, identifying its expiration date, may be issued to the owner of the dog.
- (4) Information received from a veterinarian identifying any owner, address or phone number, or rabies tag serial number, shall be considered a

Eugene Code

part of the veterinarian's customer list, and will not be disclosed except to the following, who shall keep it confidential as permitted by law:

- (a) Oregon Department of Human Services;
- (b) The animal regulation authority;
- (c) A physician, or any emergency medical personnel, treating a patient who has been bitten, scratched, or who may have been otherwise exposed to a zoonotic disease;
- (d) A veterinarian treating an animal that has been bitten, scratched, or who may have been otherwise exposed to a zoonotic disease; and
- (e) Federal, state, and local law enforcement and prosecutorial agencies investigating potential rabies transmission.

(Section 4.403 added by Ordinance No. 20342, enacted and effective March 9, 2005.)

4.405 Uses of Watchdog. Any business using a watchdog shall conspicuously post the premises to warn the public of the watchdog. The dog shall not be allowed access to the public that is on the property during business hours. If the dog is used outside of a building, the property shall be fenced in a way to prohibit the dog access to any public right-of-way and other property.

(Section 4.405 changed to 4.390, and a new section 4.405 added by Ordinance No. 19461, enacted April 13, 1987.)

4.410 Reporting of Biting Animals. The owner of an animal susceptible to rabies which bites a human being shall immediately notify the animal regulation authority or the Lane County Health Officer of such bite, the time and circumstances of such bite and the name and address of the person bitten, if known.

(Section 4.410 formerly 4.425. Section 4.425 added by Ordinance No. 17472, enacted November 12, 1975, and amended by Ordinance No. 18730, enacted December 10, 1980. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987.)

4.415 Biting and Rabid Animals - Quarantine.

- (1) When the animal regulation authority, Eugene Police Department, or the departments of public health and human services or public safety of Lane County has grounds to suspect that an animal is infected with the disease of rabies, there shall be delivered to the owner of the animal a written notice thereof. The animal shall thereupon be quarantined at the owner's expense as provided by state law. The biting of any person by the animal shall constitute adequate grounds for suspecting the animal to be so infected. The delivery of the notice to a member of the owner's family 15 years of age or older at the premises where the animal is kept or at the owner's usual place of abode, shall be delivery of notice to the owner.
- (2) Any animal that has been bitten by another animal proved to be rabid shall be destroyed.

- (3) If an animal exhibits symptoms of rabies while it is under quarantine, the director of the department of health and human services for Lane County may order in writing that it be destroyed and its head be submitted as directed to the Oregon State Public Health Laboratory.

(Section 4.415 changed to section 4.450, and a new section 4.415, formerly section 4.430, renumbered by Ordinance No. 19461. Section 4.430 amended by Ordinance No. 17472, enacted November 12, 1975, and Ordinance No. 18730, enacted December 10, 1980. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987.)

4.420 Sick or Injured Animals.

- (1) Any sick or injured animal found by a peace officer or animal control officer off the premises of its owner shall be delivered to its owner if it is feasible to do so. Any such animal for which the owner is either unknown or cannot be reached after reasonable attempts to do so, may be impounded. The director shall determine whether the animal is so severely injured or incurably crippled that the humane thing to do would be to destroy the animal. If the director reasonably believes the animal should be destroyed, the animal may be destroyed immediately. If the director reasonably believes that the animal should not be destroyed and that treatment is necessary, the animal may be delivered by the animal regulation authority to a veterinarian for medical treatment. If the veterinarian determines that treatment should be given, such treatment may be given; provided, however, the animal may be destroyed if not claimed by its owner within 72 hours after being delivered to the veterinarian.
- (2) Any peace officer or animal control officer may humanely destroy any animal too severely injured to move and not on the property of its owner, when the owner is either unknown or cannot be reached after reasonable attempts to do so.
- (3) Arrangements for fees, selection of veterinarians, liability of veterinarians, etc., shall be as determined by separate contracts between the animal regulation authority and individual veterinarians.
- (4) The owner of the animal shall be liable to the veterinarian and to the animal regulation authority for all expenses which are incurred for the care of said animal.

(Section 4.420, formerly 4.430, amended by Ordinance No. 17472, enacted November 12, 1975; Ordinance No. 18730, enacted December 10, 1980, renumbered and amended by Ordinance No. 19461, enacted April 13, 1987; and Ordinance No. 19587, enacted December 12, 1988.)

4.425 Dogs at Large Prohibited.

- (1) No dog owner shall permit a dog to be at large.
- (2) A dog owner is deemed to be negligent per se for the actions of a dog at large, or a dog undergoing field training, or a dog in a dog-off-leash area, when the dog causes injury to a person or property.

(Section 4.425, changed to 4.410, and a new section 4.425, formerly 4.360 added. Section 4.360 amended by Ordinance No. 17472, enacted November 12, 1975. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987; amended by Ordinance No. 19615, enacted May 22, 1989; and Ordinance No. 19792, enacted August 5, 1991.)

4.427 Dogs - Certain Areas Prohibited.

- (1) Except as provided in subsection (2) of this section, no dog owner shall permit a dog to be on Alder Street, including the sidewalks thereof, between and including the southern sidewalk of East 12th Avenue and the northern sidewalk of East 14th Avenue, nor on East 13th Avenue, including the sidewalks thereof, between and including the eastern sidewalk of Pearl Street and the eastern sidewalk of Kincaid Street.
- (2) The prohibition of subsection (1) of this section does not apply to a dog owner who maintains a lawful residence within the restricted area, to a dog assisting law enforcement personnel, to a dog assisting a handicapped person, or to a dog inside a motorized vehicle.

(Section 4.427 added by Ordinance No. 20057, enacted August 12, 1996; and amended by Ordinance No. 20071, enacted November 4, 1996, effective December 4, 1996.)

4.430 Continuous Annoyance. No animal owner shall permit any animal to cause continuous annoyance.

(Section 4.430 changed to 4.415, and new section 4.430, formerly 4.365 added. Section 4.365 amended by Ordinance No. 17472, enacted November 12, 1975. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987.)

4.435 Potentially Dangerous Dog.

- (1) The purpose of this section is to establish a procedure whereby dogs that pose a reasonably significant threat of causing serious injury to humans, domestic animals or livestock or property are identified and subjected to precautionary restrictions in order to prevent initial or additional injuries.
 - (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 or livestock.
 - (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 at large, bites or causes physical injury to any domestic animal or livestock.
 - (d) Level 4 behavior is established if a dog bites any person.
 - (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, while at large, kills any livestock; or

Eugene Code

4. A dog engages in or is found to have been trained to engage in exhibitions of fighting; or
 5. A dog that has been classified as a level 4 potentially dangerous dog repeats the behavior described in subsection 4.435(1)(d) after the owner receives notice of the level 4 behavior classification.
- (2) Notwithstanding subsection 4.435(1), the director shall have discretion to refrain from classifying a dog as potentially dangerous even if the dog has engaged in the behaviors specified in subsection 4.435(1) if the director determines that the behavior was a result of the victim abusing or tormenting the dog or other extenuating circumstances.
 - (3) No dog shall be classified as potentially dangerous if the behavior in question was directed against a trespasser on the property of a business which owns a licensed watchdog, providing the owner has complied with section 4.405.
 - (4) No dog shall be classified as potentially dangerous if the behavior in question was directed against a trespasser that has illegally entered any residence.
 - (5) Upon application of the dog owner accompanied by the fee established by the city manager, the restrictions for a dog classified under subsection 4.435(1) shall be reviewed by the hearings official after six months for dogs classified as Level 1 or Level 2 and after one year for dogs classified as Level 3 or higher. If the dog owner can show that the behavior which caused the classification has been corrected to the satisfaction of the hearings official, then the hearings official may enter an order modifying or deleting the classification.

(Section 4.435 added by Ordinance No. 19461, enacted April 13, 1987; and amended by Ordinance No. 19505, enacted October 12, 1987.)

4.440 Identification of Potentially Dangerous Dogs; Appeals, Restrictions Pending Appeal.

- (1) The director shall have the authority to determine whether any dog has engaged in the behaviors specified in section 4.435. This determination shall be based upon an investigation that includes observation of the dog's behavior by the animal regulation authority employees or by other witnesses who personally observed the behavior, sign a written statement attesting to the observed behavior and agree to provide testimony regarding the dog's behavior, if necessary. The determination may also be based on evidence that the dog's owner was fined or the dog was classified or registered in another state, county or city because the dog engaged in the behaviors specified in section 4.435.
- (2) The director shall give the dog's owner written notice by certified mail or personal service containing a description of the dog's specific behavior, classification as a potentially dangerous dog and 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 official within 10 days of the date the notice was received by the owner by certified mail or the owner was personally served.

- (3) The hearings official 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 section 4.435 shall be allowed to present testimony. The hearings official shall issue an order containing the hearings official's determination, which shall be final.
- (4) Once the owner has received notice of the dog's classification as a Level 1 to Level 4 potentially dangerous dog pursuant to subsection 4.440(2), the owner shall comply with the restrictions specified in the notice, within ten days, unless the owner appeals it to the hearings official. If the director's decision is upheld on appeal, the dog's owner shall be liable for the cost of the dog's impoundment.
- (5) If the director finds that a dog has engaged in Level 5 behavior, the dog shall be impounded pending 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.

(Section 4.440 changed to 4.470, and a new section 4.440 added by Ordinance No. 19461, enacted April 13, 1987; amended by Ordinance No. 19505, enacted October 12, 1987; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

4.445 Regulation of Potentially Dangerous Dogs.

- (1) In addition to the other requirements of sections 4.330 to 4.490, the owner of a potentially dangerous dog shall comply with the following additional regulations:
 - (a) If the dog has engaged in Level 1 or Level 2 behavior, the owner shall provide a physical device or structure that prevents the dog from reaching any public right-of-way or adjoining property, and shall restrict the dog by such a device or structure whenever the dog is outside the owner's home and not on a leash off the owner's property.
 - (b) If the dog has engaged in Level 3 behavior, the owner shall provide a secure enclosure and confine the dog within such enclosure whenever the dog is not on a leash off the owner's property or inside the home of the owner. The owner shall also post approved warning signs on the property where the dog is kept.
 - (c) If the dog has engaged in Level 4 or Level 5 behavior, the owner shall meet the requirements of subpart 4.445(b) 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 over the age of 18.

Eugene Code

- (d) Any dog that has been found to have engaged in Level 4 or 5 behavior may be euthanized by order of the municipal court judge or the hearings official, provided the dog's behavior poses a significant risk of additional injury or death and the owner fails to provide sufficient evidence of compliance with the restrictions imposed by this section. In addition, the hearings official or municipal court judge has the authority to suspend, for a period of time, the Level 5 dog owner's right to be the owner of any dog in the city, including dogs currently owned by that person.
 - (e) To ensure correct identification, the owner of a dog that has been classified as potentially dangerous shall cause the dog to wear an identifying collar and ID tag. In addition, the owner of a dog that has engaged in Level 5 behavior shall have the dog marked with a permanent identifying mark.
 - (f) In addition to obtaining a regular dog license, the owner shall obtain a potentially dangerous dog license pursuant to sections 4.395(2) and 4.395(5).
 - (g) The owner of a potentially dangerous dog shall notify the director of the transfer of ownership by sale, gift or otherwise of the potentially dangerous dog and of the name and address of the person to whom the potentially dangerous dog was transferred.
- (2) No person shall own a dog in violation of this section or of the hearings official's order under subpart 4.445(1)(d).

(Section 4.445 changed to section 4.360; a new section 4.445 added by Ordinance No. 19461, enacted April 13, 1987; amended by Ordinance No. 10505, enacted October 12, 1987; and Ordinance No. 19615, enacted May 22, 1989.)

4.450 Dangerous Animals.

- (1) No person who is the owner of a dangerous animal, or who has a right of property in, or who harbors, has in their care, possession, custody or control a dangerous animal, shall allow a dangerous animal to be exposed to the public.
- (2) A dangerous animal which has been exposed to the public may be impounded by any peace officer or animal control officer and disposed of in accordance with the provisions of this code for the impoundment and disposition of animals, except, before a dangerous animal is released, the municipal judge must enter findings that proper precautions will be taken to insure the public health and safety.
- (3) A dangerous animal running at large which because of its disposition or diseased condition is too hazardous to apprehend may be destroyed by a peace officer, animal control officer, or by a person acting in defense of that person's own self or another person.

(Section 4.450 changed to 4.475, and a new 4.450, formerly section 4.415 added: Section 4.415 added by Ordinance No. 17472, enacted November 12, 1975. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

4.455 Livestock Not to Run at Large. No person who is the owner or keeper of livestock shall permit or allow the same to run or be at large or to be on or enter the premises of another person.

(Section 4.455 changed to 4.500, and a new 4.455, formerly 4.330 added, renumbered and amended by Ordinance No. 19461, enacted April 13, 1987.)

4.460 Parking or Tethering Horses on Streets Prohibited. No person who is the owner or keeper of a horse shall park it or tether it on a public way or allow it on a public way or in a park except under the direct control of a qualified person.

(Section 4.460, formerly 4.340, renumbered and amended by Ordinance No. 19461, enacted April 13, 1987.)

4.465 Dog Waste Matter. It shall be unlawful for a dog owner to allow the dog, except for seeing eye dogs, to deposit solid waste matter on any improved property other than that of the dog owner. It shall be a defense to this section if the dog owner immediately removes the solid waste.

(Section 4.465, formerly 4.370. Section 4.370 amended by Ordinance No. 17472, enacted November 12, 1975. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987.)

4.470 Dead Animals - Removal of Carcasses. No person shall knowingly permit an animal carcass owned by that person to remain on public property or to be exposed on private property.

(Section 4.470, formerly 4.440. Section 4.440 amended by Ordinance No. 17472, enacted November 12, 1975. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

4.475 Animal Euthanasia.

- (1)** No animal agency may put to death a dog or cat by any means other than an individual injection of sodium pentobarbital administered by a veterinarian, animal technician or person licensed by the Oregon State Veterinary Medical Examining Board to administer sodium pentobarbital.
- (2)** No veterinarian in private practice of veterinarian medicine may put to death a dog or cat under the veterinarian's care, custody or control by any means other than the individual injection of a drug administered by the veterinarian or animal technician.

(Section 4.475, formerly 4.450. Section 4.450 added by Ordinance No. 18640, enacted June 9, 1980, and amended by Ordinance No. 19151, enacted May 30, 1984. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

4.480 Selling, Trading, Bartering or Giving Away Animals in Certain Locations Prohibited. No person shall sell, trade, barter or give or offer to give away any animal to another person in a city park or property owned by the city.

(Section 4.480 added by Ordinance No. 19461, enacted April 13, 1987.)

4.485 Sale, Etc., of Baby Chicks, Ducklings, Goslings or Rabbits.

- (1) No baby chick, duckling, gosling or rabbit that has been dyed or otherwise colored artificially may be sold or offered for sale, raffled, offered or given as a prize, premium or advertising device or displayed in a store, shop, carnival or other public place.
- (2) Baby chicks, ducklings and goslings younger than four weeks of age may not be sold or offered for sale, raffled or offered or given as a prize, premium or advertising device in quantities of less than 12 birds to an individual person.
- (3) Stores, shops, vendors and others offering baby chicks, ducklings or goslings for sale, raffle or as a prize, premium or advertising device or displaying chicks, ducklings or goslings to the public shall provide and operate brooders or other heating devices that may be necessary to maintain the chicks, ducklings or goslings in good health and shall keep adequate food and water available to the birds at all times.

(Section 4.485, formerly 4.350, renumbered and amended by Ordinance No. 19461, enacted April 13, 1987.)

4.490 Dogs in Season (Estrus). No person shall permit a dog in heat (estrus) to be accessible to male dogs not in the person's ownership, except for intentional breeding purposes.

(Section 4.490 added by Ordinance No. 19461, enacted April 13, 1987.)

4.500 Interference with Police Animal.

- (1) Interference with a police animal in the second degree. A person commits the crime of interference with a police animal in the second degree if the person:
 - (a) Intentionally, knowingly or recklessly torments, interferes with or tampers with a police animal while the police animal is being used in the lawful discharge of its duty; or
 - (b) Intentionally torments or seeks to cause injury to a police animal at any time if the person knows that the animal is a police animal; or
 - (c) Causes or directs any animal to attack or otherwise interfere with a police animal while the police animal is being used in the lawful discharge of its duty. A peace officer may destroy an animal attacking a police animal if no lesser means are reasonably available to prevent injury to the police animal.
- (2) Interference with a police animal in the first degree. A person commits the crime of interference with a police animal in the first degree if the person intentionally or knowingly injures or attempts to injure an animal

Eugene Code

the person knows or reasonably should know is a police animal while
the police animal is being used in the lawful discharge of its duty.

(Section 4.500, formerly section 4.455. Section 4.455 added by Ordinance No. 19171, enacted August 8, 1983. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987, and amended by Ordinance No. 19686, enacted May 14, 1990.)