

ORDINANCE NUMBER 1352

AN ORDINANCE PROVIDING FOR ANIMAL CONTROL; ANIMALS RUNNING AT LARGE; ESTABLISHING THE LICENSING OF DOGS; REPEALING OTHER ORDINANCES; AND DECLARING AN EMERGENCY.

THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Title

This Ordinance shall be known as the "Animal Control Ordinance."

Section 2. Purpose and Scope

- (A) The purpose of this Ordinance is to provide for the control of animals at large or which cause disturbances or are a nuisance to the general welfare, safety and peace of the community.
- (B) This ordinance provides that dog licensing and license fee collection shall be a function of the City of Milwaukie.
- (C) The authority for licensing and the collection of license fees is set out in ORS 609, Dogs and Cats, and most specifically under Subsection 609.100 Dog Licenses and Records; and the authority for rabies control shall be that found under ORS 433.340 through ORS 433.390, Rabies Control.

Section 3. Definitions

- (A) Animal shall include any dog, cat, goat, sheep, horse, cow or any other livestock, any bird, or reptile.
- (B) Animal Control Shelter shall include the dog pound or kennel operated or contracted by the County Dog Control District of Clackamas County or such other animal refuge or retention facility which may be required from time to time to carry out the purpose of this ordinance.
- (C) Owner or Keeper shall include any person or legal entity having possessory interest in an animal or who cares for or is in charge of one or more animals or who knowingly permits any animal to remain on premises occupied by him.
- (D) Running at Large shall mean off or outside the premises belonging to the owner or person having control, custody or possession of the animal while the animal is not under the complete control by such person by means of an adequate leash, restraint or humane container, or is contained by a vehicle of such person.
- (E) Vicious Animal shall include any animal or animals that have a propensity to be or are a physical threat to human beings or other animals.

Section 4. Enforcement

The provisions of this ordinance shall be enforced by the Chief of Police

or his designee, or animal control officer of the City of Milwaukie.

Section 5. Public Nuisance and Owner Restrictions

- (A) An animal shall be declared a public nuisance if it:
- 1) Bites a person;
 - 2) Habitually chases vehicles or person;
 - 3) Runs at large;
 - 4) Damages or destroys property of persons other than the owner of the animal;
 - 5) Scatters garbage;
 - 6) Habitually trespasses on private property of persons other than the owner of the animal;
 - 7) Disturbs any person by frequent or prolonged noises.
- (B) It shall be a violation of this ordinance for the owner or keeper of any animal to:
- 1) Permit an animal to be a public nuisance;
 - 2) Keep a vicious animal;
 - 3) Leave an animal unattended for more than 24 consecutive hours without adequate care;
 - 4) Physically mistreat any animal either by abuse or neglect to furnish adequate care, including medical attention;
 - 5) Permit an animal in public parks except in those areas specially designated to permit animals, where animals must be confined to such restricted areas;
 - 6) Permit any animal to leave the confines of any officially prescribed quarantine area without authorization;
 - 7) Leave excreta or other waste deposited by an animal in physical possession and control of any person while in a public place including but not limited to streets, sidewalks, parking strips and public parks.
- (C) An owner or keeper permits an animal to violate this ordinance when the human conduct is intentional, deliberate, careless, inadvertant or negligent.

Section 6. Exception to Public Nuisance

An animal shall not be considered a public nuisance, nor shall it be de-

stroyed, if it bites a person wrongfully assaulting the animal or the animal's owner or keeper, or if it bites a person trespassing upon premises owned or occupied by the animal's owner after being provoked by that person.

Section 7. Impounding

Any member of the police department or animal control officer of the City of Milwaukie is authorized to impound any animal found to be in violation of Section 5, or a dog found to be unlicensed.

Section 8. Limiting the Number of Dogs Within a Household

- (A) Persons are in violation of this ordinance if they own, possess, harbor or house more than three (3) dogs.
- (B) Persons shall not be in violation when they own, possess, harbor or house more than three (3) dogs, if they:
 - 1) Obtain a kennel facility license;
 - 2) Meet all state requirements of kennel facility operation, health and safety;
 - 3) Meet and satisfy all city ordinances and zoning requirements which presently exist or which may be enacted to provide for the licensing of kennel facilities.
 - 4) Are owners or keepers of a dog which has a litter and these animals are less than 6 months old.

Section 9. Licenses and Fees for Dogs

- (A) Every person owning or keeping any dog which has a set of permanent canine teeth shall, not later than March 1 of each year or within 30 days after he moves or resides within the corporate limits of the City of Milwaukie, procure from the city recorder of the City of Milwaukie, a license for the dog by paying to the city recorder all license fees as established by state law.
- (B) Licensing. Dogs of the age of six months or older shall be licensed upon attaining the required age or within thirty (30) days of acquisition by the owner, whichever ever occurs later; licenses shall be issued upon payment of the required fee.
- (C) Licenses.
 - 1) License tags shall be securely displayed upon animals at all times, except when the animal is confined to the owner's premises, is displayed in any official exhibition or is working in the field as a hunting animal.
 - 2) Permanently issued license numbers may be tattooed to the animal's inner right thigh in lieu of displaying a license tag; however, the owner must pay the annual license fee to maintain a current license

and the receipt for payment shall serve as evidence of validity.

- 3) Licenses are not transferrable from one animal to another. When an animal which is licensed is given over to a new owner, that new owner must have the dog licensed in the new owner's name by contacting the animal control officer and paying a \$2.00 administrative fee within thirty (30) days of the transfer.
- 4) A replacement license tag may be issued when a dog tag previously issued by the City of Milwaukie has been lost, misplaced, or destroyed. The fee for a replacement tag shall be \$5.00.
- 5) A penalty fee shall be charged an applicant who fails to apply for a license within the times specified herein and as set forth in state law.

(D) Exceptions from licensing and waiver fees.

- 1) Fees shall be waived for license issued for any guide dog upon presentment of an affidavit by the dog's owner; such license shall be valid for the life of the dog or so long as the dog remains the property of the person named in the affidavit.
- 2) Persons aged 65 years or older shall be required to pay only one half the license tag fee established for animals rendered unproductive if the animal to be licensed is sexually unproductive, provided that the penalty for late application shall not be waived.

Section 10. Rabies Vaccination Required

A signed certificate of rabies vaccination must be presented indicating that the dog to be licensed has been so vaccinated prior to the issuance of the license.

Section 11. Animal Control Shelter Regulations

- (A) Whenever a dog is impounded under the authority of this ordinance and the owner or keeper of such dog is known, he shall be given notice of the impounding by personal service or by mailing the notice by certified mail, return receipt requested, to the owner or keeper's last known address. Such owner or keeper of such dog shall have seven (7) days from the date of impoundment to claim the dog and pay the redemption fee hereinafter provided and if he fails to claim the dog within such time and pay the fees hereinafter provided, such dog shall be disposed of as hereinafter provided.
- (B) Whenever a dog is impounded under the authority of this ordinance and the owner or keeper thereof is unknown, a notice shall forthwith be posted in three public places in or about the City of Milwaukie. The notice shall contain a general description of the impounded dog, showing breed, sex, color and markings and shall designate the date which the described dog shall be disposed of unless sooner claimed and redeemed. Such date shall be not less than seven (7) days after impounding the dog; if no claim or redemption by the owner or keeper of the

described dog be made within the time fixed by the notice, such dog shall be disposed of as hereinafter provided.

- (C) Any dog or other animal impounded for biting a person shall be quarantined for not less than 10 days before redemption or destruction to determine if said dog or animal is rabid. Any dog or other animal may be released before the 10 day quarantine period expires when a valid rabies vaccination certificate can be provided. The date of such a vaccination must be within the previous 12 months, it must clearly show the veterinarian who gave the vaccination and the owner or keeper must sign before a notary an affidavit stating that the animal has had the above indicated vaccination. This affidavit is to be signed prior to the payment of applicable fees and fines due the city in conjunction with this ordinance.
- (D) Any dog impounded under authority of this ordinance may be released to the owner or keeper thereof upon payment to the city recorder, or authorized agent, of the following fees and charges: A redemption fee not to exceed \$5.00 for first impoundment and \$10.00 for each subsequent impoundment plus the actual costs of boarding of said dog together with all applicable license fees if said dog is not then licensed.
- (E) If an impounded dog is not claimed by its owner or keeper within the time limits fixed above it may be released to any person on payment to the city recorder, or his authorized agent, of the fees and charges fixed in Section 11, subsection (D) above, and subject to claim of the owner of such dog upon reimbursement of the fees and charges so paid, and provided that the claim of such owner is made within one month after the date of impounding. Upon releasing any dog to a person other than its owner, the Police Department or Animal Control Officer shall obtain and keep a written receipt from such person acknowledging that such person holds the dog subject to the claim of the owner upon reimbursement of the fees and charges paid.
- (F) If no claim or redemption by the owner or keeper of the described dog be made within the time fixed by the applicable notice and if no person claims the impounded dog pursuant to Section 11, subsection (E) above, such dog shall be given away or humanely destroyed at the expiration of such time.

Section 12. Record of Impoundment

The Police Department or Animal Control Officer shall make in triplicate a detailed record of each impoundment showing the date and time impounded, description of the animal, name and address of the owner or keeper, if known, and the name and address of the person to whom the dog is released, date of release, or date and method of other disposal. The original of such records shall be retained with the Animal Control Shelter, and the duplicate copy shall be kept by the Police Department and the triplicate copy shall be filed with the city recorder.

Section 13. Interference with Officer

It shall be unlawful for any person to interfere in any way with any Police

Officer or Animal Control Officer of the City of Milwaukie engaged in seizing or impounding any animal under authority of this ordinance.

Section 14. Injured or Sick Animals

- (A) The member of the Police Department or the Animal Control Officer of the City of Milwaukie who impounds any animal which is in need of medical attention may in his discretion: (1) authorize the necessary medical attention, or (2) have the animal humanely destroyed.
- (B) The member of the Police Department or Animal Control Officer of the City of Milwaukie shall make diligent effort to locate the owner or keeper of an animal in need of medical attention before authorizing such medical attention or disposal of said animal.
- (C) Should the member of the Police Department or Animal Control Officer of the City of Milwaukie authorize the necessary medical attention, then and in that event the owner or keeper of said animal shall be liable for the costs of the medical treatment rendered to said animal.

Section 15. Poisoning of Animals

It shall be a violation of this ordinance for any person who knowingly places poisons or food of any description containing poisonous or other injurious ingredients in any area accessible to animals as defined in this ordinance.

Section 16. Penalties

Any person violating any provisions of this ordinance shall, upon conviction, be punished by a fine not exceeding the sum of \$100.00.

Section 17. Severability

If any section, subsection or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, the invalid part shall be severed from the ordinance and such holdings shall not affect the validity of the remaining portions of this ordinance.

Section 18. Repealer

All portions of other ordinances in conflict with the provisions of this ordinance including but not limited to Ordinance #736, Running at Large; Ordinance #1025 Offenses Section 13, subsections 1, 2, and 3 and Section 27, Subsection 4; and Ordinance #1028 Nuisances Sections 2, 3, and 4 Subsections 1 and 2, and Section 15 subsections 2a, and 2b, are hereby repealed.

Section 19. Emergency Clause

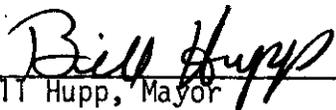
It is hereby adjudged and declared that existing conditions are such that this ordinance is necessary for the immediate preservation of the public health, peace, safety and best interest of the inhabitants of

the City of Milwaukie, Oregon, therefore an emergency is hereby declared to exist, and this ordinance shall take effect and be in full force and effect from and after its passage by the Council and signing by the Mayor.

Read the first time this 7th day of December 1976, and moved to second reading by unanimous vote of the City Council.

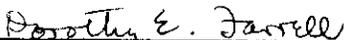
Read the second time and adopted by the City Council this 7th day of December 1976.

Signed by the Mayor this 7th day of December 1976.



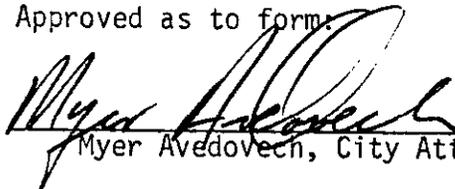
Bill Hupp, Mayor

ATTEST:



Dorothy Farrell, Recorder

Approved as to form:



Myer Avedovech, City Attorney