

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS
Staff Presentation Worksheet

Presentation Date: May 4, 2010 Time: 10:00 am Length: ⁶⁰~~30~~ minutes
Presentation Title: Proposed Amendments to Code Title 5, Animals, 5.01 *Dog Licensing & Services*
Department: DTD -Dog Services & County Counsel
Presenters: Cam Gilmour, Diana Hallmark, Kimberley Ybarra-Cole

POLICY QUESTIONS

- I. Whether to proceed to a first reading with the proposed amendments to the Dog Code.
- II. Whether to remove the violation, "Continuous Annoyance" (barking dogs) from the Code; whether to retain the violation and assign it a higher division response priority¹; whether to keep the status quo.
- III. Whether to seek consent from the cities to enforce the amended Code within a city and if so, whether to identify a service delivery that requires financial contribution from a participating city.

ISSUES & BACKGROUND

- I. The last revision of the dog code was completed in 2004 and replaced the former chapter in its entirety. Since that time counsel and Dog Services staff has determined that some fine tuning is needed. This has led to the following substantive proposals to amend the Dog Code:

1. **Proposal:** Add Livestock violations to Code.

Livestock violations are currently prosecuted by the County using state law. State law provides that unless a county has determined otherwise by ordinance, state law provisions apply. Some state provisions differ from current Code violation procedures and remedies. This creates citizen confusion and inconsistency in the application of the law. To avoid this, we recommended that livestock violations be added to and prosecuted under the Code.

Code Change: (Page 2) - Create a definition for "Livestock" in 5.01.020 and amend the following code sections to add the term "livestock" to the phrase, "person, or domestic animal", to read, "person, domestic animal, or livestock":

¹ In 2004 the BCC established, *DTD – Dog Services Division, Philosophy, Priorities & Protocol*, setting division response priorities to citizen complaints. Response to barking dogs was set at priority 18 of 18.

5.01.050(A-C); 5.01.040 (C)(1)(a) & (12); 5.01.020(A)(1), (5) & (16);
5.01.060(A)(4); 5.01.070 (C)(2)(g).

2. **Proposal:** Delete provision for "Commercial Dog" license.

Code change: The County has historically offered two types of "multiple" dog licenses, commercial and non-commercial. The more expensive commercial license is required when an owner's interest in a dog has a, "primary purpose of obtaining a profit in money". It can be difficult and contentious to determine when an owner's primary interest in his/her dog is for profit. The proposed amendment replaces a commercial license with a multiple dog license without regard to whether the owner keeps the dog as a pet or for profit. Owner's that have a commercial dog license in good standing after the effect of the amendment will be able to maintain their license until expiration, thereafter they will need to apply for a multiple dog license.

Proposed language: (page 4)

5.01.030 (A) (2): Multiple Dog license.

- a. Qualification; Application; Inspection. When an owner has more than one dog the owner may obtain or renew a multiple dog license after submission of a qualifying Multiple Dog License Application and after a County inspection of the applicant's premises to determine that minimum care standards exist.
- b. Denial of a Multiple Dog License. An owner may appeal the denial of a multiple dog license to a Hearings Officer by delivering a written request to Dog Services within seven (7) days of the mailing date of the written notice denying the license. A hearing will follow the same procedures set forth in this chapter for a hearing on a violation except that the burden of proof will be on the owner to prove that the denial was improper.
- c. Land Use Approval. Issuance of a Multiple Dog License does not constitute approval of a particular land use or indicate compliance with any zoning or land use planning restrictions that may apply. Applicant may be required to demonstrate compliance with city or county zoning or land use planning restrictions prior to issuance.

3. **Proposal:** Add four new violations.

Code Change: (Page 8) - Amend section 5.01.040(C), to add four new violations:

Proposed language:

14. It is unlawful to keep a dog in a manner that does not meet minimum care standards of this chapter.
15. It is unlawful to fail to maintain a current rabies vaccination.
16. It is unlawful for a person who has been bitten by a dog, or a parent/guardian of a bitten minor, to fail to immediately notify Dog Services when required by this chapter.
17. It is unlawful for a dog owner to fail to follow any condition of release pending final disposition of a violation of this chapter.

4. **Proposal:** Standardize quarantine of biting dogs to be consistent with state law.

Code change: (Page 8 & 9) - Amend section 5.01.050(B), quarantine of biting dogs, to reflect state law standards in ORS chapter 433 and Oregon Administrative Rules 333-019-0024.

Proposed language:

1. A dog suspected of biting a person will be quarantined at the owner's expense until the tenth day following the bite in accordance with state law.
2. At the discretion of the County, a dog that has proof of a current rabies vaccination, exemption from vaccination, or current Oregon county or city license may be quarantined at the premises of a licensed veterinarian or at the premises of the owner providing the dog is kept within a secure enclosure or with approved restraint deemed adequate to prevent contact with any person or other animal, and is kept in accordance with any other conditions set by the County as permitted by this chapter or required by state law. It shall be a violation of this chapter if during home quarantine the dog leaves the confines of a prescribed quarantine area for any reason or otherwise violates the conditions of quarantine.
3. Dogs that have bitten a person whose owners do not have proof of a current rabies vaccination, exemption from vaccination, or current Oregon county or city license shall be apprehended and impounded as resources allow.
5. **Proposal:** Add a provision that at the County's discretion allows a dog to be conditionally released upon certain conditions being met by the owner pending a violation hearing.

Code change: (page 13) Amend Section 5.01.060(C).

Proposed Language:

C. Release of Impounded Dogs; Conditional Release.

1. Release.

- a. Release Prohibited. Unless otherwise ordered by a Hearings Officer or court of competent jurisdiction, an impounded dog may not be released until final disposition of any violation alleging that the dog has killed a person, or when a dog is pending classification or has been classified as a dangerous dog.
- b. Release Permitted. Unless prohibited by this chapter prior to final disposition of a violation or pending appeal, an impounded dog may be released subject to release conditions consistent with this chapter if any, upon posting security in the amount equal to 50% of the base fine for each violation and payment of fees and costs owed to date including prior outstanding balances.

2. Conditional Release.

- a. Conditions. As permitted by this chapter pending final disposition of a violation or appeal, the County or Hearings Officer may conditionally release an impounded dog to its owner and may impose any of the following release conditions, including but not limited to a requirement that the dog owner:
 - i. Obtain and provide proof of a rabies vaccination within a designated time;
 - ii. Provide proof of license within a designated time;
 - iii. Restrain the dog on the dog owner's property by means of a secure enclosure;
 - iv. Control the dog on a leash that is no longer than six (6) feet, and at all times handled by an adult who is able to control the dog;
 - v. Muzzle the dog at all times when off the dog owner's property;
 - vi. Obtain veterinary care for the dog within a designated time;
 - vii. Comply with minimum care standards consistent with this chapter;
 - viii. Keep the dog indoors during certain hours.

- b. Revocation of Conditional Release; Violation; Security Forfeited.
- i. Revocation. Upon reasonable ground to believe that a release condition has been violated the County may revoke release, and apprehend and impound the subject dog pending final disposition of the underlying violation or appeal.
 - ii. Violation. At the time of revocation the dog owner shall be cited for failure to follow condition(s) of release. A hearing on revocation may be made in accordance with section 5.01.070 of this chapter and consolidated with a hearing on the underlying violation(s).
 - iii. Security Forfeited. The security amount posted on conditional release shall be forfeited upon a finding that one or more conditions of release were violated or if no timely hearing is requested.

6. **Proposal:** Clarify an owner's obligation to reclaim a dog within five (5) days of a Hearings Officer's final order that releases a dog, or dog will be deemed surrendered by the owner.

Code change: (Page 14) - Amend 5.01.060(C)(4), to add new language to clarify that a dog must be reclaimed within five (5) days of a Hearing Officer's final order . If not reclaimed the dog will be deemed abandoned. Often owners do not reclaim their dogs which burdens shelter space. Currently, the only remedy is to cite the owner for failure to redeem the dog which costs more county time and adds to the expense of keeping the dog. The proposed language will place the burden on the dog owner to promptly reclaim the dog.

Proposed language:

An owner must reclaim a dog within five (5) business days after notice of a Hearings Officer's Final Order unless otherwise ordered or unless stayed by a court of competent jurisdiction.

7. **Proposal:** Add a new section identifying what State dog control laws apply to control of dogs in addition to the Code. This will clarify what statutes have been superseded by the County's statutory authority to regulate dogs as authorized in, ORS 203.035; 609.015, ORS 609.135 and 153.030.

Code change: (page 21) Add new Section 5.01.120.

Proposed language:

5.01.120 Enforcement of Other Laws

- A. Enforcement of Dogs: Pursuant to ORS 203.035; 153.030; 609.015 and ORS 609.135, this chapter supersedes enforcement in the county of the following state statutes regarding control of dogs: ORS 609.030 and 609.035 to 609.110; 609.155; 609.158; 609.170; 609.180; 609.190.
- B. Enforcement of Rabies Control: Rabies control shall be enforced by the county Health Officer in cooperation with the Manager in accordance with the provisions of ORS 433.340 through 433.390.
- C. Enforcement of Violations Involving Livestock: When a dog is determined to be a Public Nuisance under this chapter for menacing, biting, injuring or killing livestock, in addition to all other provisions and regulations of this chapter the following state statutes apply: ORS 609.156; 609.161; 609.162; 609.163; 609.167; 609.168.
- D. Other Laws Apply: Except as expressly provided in this chapter, this chapter shall in no way be a substitute for or eliminate the necessity of conforming with any and all state and federal laws, rules and regulations, and other ordinances which relate to the requirements provided in this chapter.

II. Whether to remove the violation, "Continuous Annoyance" (barking dogs) from the Code; whether to retain the violation and assign it a higher division response priority; whether to keep the status quo.

In 2004, the BCC approved compliance and response priorities for Dog Services giving the violation, "Continuous Annoyance" (barking dogs) the lowest response priority at 18 of 18. Citizens frequently contact Dog Services to complain about barking dogs and are upset when they are advised that the County does not have the resources to respond. To avoid this frustration staff has asked to remove the violation from the Code so that citizens can be informed that the County does not regulate barking dogs. Counsel recommends that the violation remain so that the County may enforce it when necessary and as resources allow. If the Board retains the violation, to address citizen demand consideration may be given to making the offense a higher response priority if staff members are able to meet this demand.

III. Whether to seek consent from the cities to enforce the amended Code within a city and if so, whether to identify a service delivery that requires financial contribution from a participating city.

In order for the amended code to apply within the cities, each city must consent to jurisdiction. Following the 2004 Dog Code amendments the County sought city consent to enforce the Code within each city, but did not seek financial

reimbursement for service delivery costs. Except for the three cities that had their own dog control regulations (West Linn, Lake Oswego, Gladstone) all County cities consented to jurisdiction and the County has provided services to date. Since the 2004 code amendments the County has proposed at various times that the cities pay for their use of the County shelter. Cities have rejected contribution on the basis that their citizens pay county property taxes.

Counsel asks for the Board's direction on the issue of seeking City consent.

RECOMMENDATIONS

Staff recommends that the Board tentatively approve the proposed amendments to the Dog Code and schedule a first reading of the ordinance at a business meeting.

SUBMITTED BY:

Division Director/Head Approval _____
Department Director/Head Approval *Anja Mundy*
County Administrator Approval _____

For information on this issue or copies of attachments, please contact Anja Mundy at 503-655-8362.