

ORDINANCE NO. 2288

AN ORDINANCE AMENDING CHAPTER 90 OF THE HERMISTON CODE OF ORDINANCES
ENTITLED "ANIMALS."

WHEREAS, the staff of the City of Hermiston is conducting a major review of the City's ordinances, now, therefore,

The City of Hermiston ordains as follows;

(New language is in *italics* and repealed language has a ~~line through it~~.)

Section 1. Section 90.01 of Chapter 90 of the Hermiston Code of Ordinances is repealed and a new Section 90.01, containing the desired amendment, is substituted in its place.

~~90.01 DEFINITIONS.~~

~~For the purpose of §§ 90.03 through 90.05 only, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~**PERSONS.** Any natural person, firm, corporation, partnership, association or other legally identifiable group, whether he or it is acting for himself or itself or as the clerk, servant, employee or agent of another.~~

~~**PREMISES OPEN TO THE PUBLIC.** Has the same meaning as that set forth in ORS 801.400.~~

90.01 DEFINITIONS.

LIVESTOCK. Ratites, psittacines, horses, mules, jackasses, cattle, llamas, alpacas, sheep, goats, swine, domesticated fowl and any fur-bearing animal bred and maintained commercially or otherwise, within pens, cages and hutches. Hereafter in this Chapter whenever the word "animal" or "animals" is used it shall mean and include any and all kinds of livestock or poultry.

PREMISES OPEN TO THE PUBLIC. Any premises open to the general public regardless of whether the premises are publicly or privately owned, or a fee is charged for entrance or use of the premises.

Section 2. Section 90.02 of Chapter 90 of the Hermiston Code of Ordinances is amended to read:

90.02 LIVESTOCK RUNNING AT LARGE PROHIBITED.

No person, persons or corporation owning or having possession or control of any livestock or poultry shall allow the livestock or poultry to run at large or to be or remain at large upon the streets, sidewalks, public grounds or unfenced lots or grounds within the limits of the ~~city~~ City. ~~Hereafter in this chapter whenever the word "animal" or "animals" is used it shall mean and include any and all kinds of livestock or poultry.~~

Section 3. Section 90.03 of Chapter 90 of the Hermiston Code of Ordinances is amended to read:

90.03 VEHICLES INJURING ANIMALS.

Any person operating a vehicle as defined by the motor vehicle laws of Oregon, upon *any public right of way or premises open to the public*, who shall run over, strike, injure, maim or kill any animal shall immediately stop and render aid to the animal, if injured, or provide for the disposition of the carcass, if the animal be killed. If it is a domestic animal, the person shall make a due and diligent inquiry to determine the owner of such and, if located, shall notify *the owner* ~~him~~ of the occurrence.

Section 4. Section 90.04 of Chapter 90 of the Hermiston Code of Ordinances is amended to read:

90.04 KILLING OF BIRDS.

It shall be unlawful for any person to *use a weapon, including but not limited to an air gun, blow gun, or bow and arrow or firearm discharge* ~~any firearm, air gun, blow gun or other similar device~~, or throw any *item* ~~missile~~ at any non-game bird with the intent to injure or kill the same.

Section 5. Section 90.05 of Chapter 90 of the Hermiston Code of Ordinances is amended to read:

90.05 REMOVAL OF ANIMAL CARCASSES.

It shall be ~~a violation unlawful~~ for any person to suffer or permit the carcass of any animal owned by them to remain upon any premises open to the public, *including public right of way*, and no person who is the owner or occupant of any property shall suffer or permit the carcass of any animal to remain thereon. It shall be the duty of the owner or occupant forthwith to cause the carcass to be disposed of in a manner approved by law.

Section 6. Section 90.15 of Chapter 90 of the Hermiston Code of Ordinances is amended to read:

DOGS

90.15 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AT LARGE. Any dog off the premises of the owner and ~~or~~ not under the control of the owner or keeper ~~a member of the immediate family either~~ by leash, cord, tether ~~chain~~ or similar device unless in an enclosed area specifically designated for animals to be off leash. ~~otherwise.~~

DOG. Any domestic canine. ~~Both male and female.~~

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

Keeper. A person that owns, possesses, including temporarily, harbors, cares for, or knowingly permits a dog to remain on premises occupied by the person.

OWNER. Any person ~~or persons, firm, association or corporation~~ owning ~~keeping or harboring~~ a dog.

Section 7. 90.16 of Chapter 90 of the Hermiston Code of Ordinances is repealed and a new Section 90.16, containing the desired amendment, is substituted in its place.

~~90.16 DOG AT LARGE.~~

~~(A) It is a strict liability offense for a dog to be at large and the owner of the dog shall be guilty of a violation of this chapter if the dog is found to be in violation.~~

90.16 VACCINATION.

All dogs six months of age or older shall be vaccinated against rabies, and such vaccination shall be maintained current through the life of the dog unless exempted by a veterinarian pursuant to the rules of the Oregon Health Authority. Failure of an owner to comply with this section is a violation.

Section 8. 90.17 of Chapter 90 of the Hermiston Code of Ordinances is repealed and a new Section 90.17, containing the desired amendment, is substituted in its place.

~~90.17 VACCINATION.~~

~~It shall be unlawful for the owner to keep or maintain any dog unless it shall have been vaccinated by a licensed veterinary surgeon with anti-rabies vaccine within one year of the date on which the dog is kept or maintained. (Ord. 1503, passed 3-26-84) Penalty, see §90.99~~

90.16 LICENSES AND RECORDS.

(A) Except as provided herein, every person owning a dog which has a set of permanent canine teeth, within 30 days after becoming an owner of the dog or moving the dog into the City, shall obtain from the Finance Director/Recorder a license for the dog by paying to the Finance Director/Recorder the license fee established by resolution of the City Council. Proof of rabies inoculation, or valid exemption, is required to obtain a license. In addition to constituting a violation of this subchapter, failure to obtain the license within the time provided by this section, may result in an additional fee as established by resolution of the City Council.

(B) The Finance Director/Recorder shall at the time of issuing the license supply the licensee, without charge, with a suitable tag having legibly stamped with dies across one side thereof, to wit: year license issued, license number and to be imprinted with "City of Hermiston, OR." The tag shall be fastened by the licensee to a collar and kept on the dog at all times when off the premises of the licensee.

(C) Dogs owned by dealers, breeders, exhibitors or animal shelters where they are kept in kennels exclusively for sale, exhibition or adoption purposes, or while the dogs are being transported by dealers, breeders, exhibitors or animal shelters to and from a dog show, fair or similar event are exempt until transferred to a third party.

(D) Service dogs shall be licensed, but no license fee imposed. For purposes of this paragraph, a service dog is a dog that qualifies under the Americans With Disabilities Act or as an assistance dog pursuant to ORS 659.103 as individually trained to do work or perform tasks for the benefit of a person with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. Emotional support or comfort dogs do not qualify. In ascertaining the qualifications of the animal for this exemption, the City may inquire only as to whether the dog is required because of a disability and as to what work or task the dog has been trained to perform.

(E) The Finance Director/Recorder shall keep a record of dog licenses in a special book for such purposes.

Section 9. 90.18 of Chapter 90 of the Hermiston Code of Ordinances is repealed and a new Section 90.18, containing the desired amendment, is substituted in its place.

90.18 PUBLIC NUISANCES.

~~(A) A dog is a public nuisance if it:~~

~~(1) Bites or attempts to bite a person;~~

~~(2) Chases vehicles or persons;~~

~~(3) Attacks other dogs;~~

~~(4) Damages or destroys property of persons other than the owner of the dog;~~

~~(5) Scatters refuse;~~

~~(6) Habitually trespasses on private property of persons other than the owner of the dog;~~

~~(7) Disturbs any person by frequent or prolonged noises; or~~

~~(8) Is a female in heat and at large.~~

~~(B) It is a strict liability offense for a dog to be a public nuisance, and the owner of the dog shall be guilty of a violation of this chapter if the dog is found to be a public nuisance.~~

90.17 DOG AT LARGE.

It is a violation of this subchapter for an owner or keeper to permit or suffer a dog to run at large.

Section 10. 90.19 of Chapter 90 of the Hermiston Code of Ordinances is repealed and a new Section 90.19, containing the desired amendment, is substituted in its place.

90.19 AFFIRMATIVE DEFENSE.

~~A dog shall not be considered a public nuisance for biting or attempting to bite a person if it bites or attempts to bite a person wrongfully assaulting the dog or the dog's owner, or if it bites or attempts to bite a person trespassing upon premises occupied by the dog's owner after being provoked by that person.~~

90.18 PUBLIC NUISANCES.

The owner or keeper of a dog committing any act constituting a public nuisance is in violation of this subchapter. A dog is a public nuisance if it:

- (1) Bites or attempts to bite a person;*
- (2) Chases vehicles or persons;*
- (3) Kills or injures or attempts to kill or injure a domestic animal or livestock;*
- (4) Damages or destroys property of persons other than the owner or keeper of the dog;*
- (5) Scatters refuse;*
- (6) Is at large;*
- (7) Disturbs any person by frequent or prolonged noises;*
- (8) The owner or keeper fails to immediately pick up feces deposited by the dog on property owned by another, including public property;*
- (9) The owner or keeper interferes with a police officer performing the officer's authority or duties under this subchapter; or*
- (10) Is not licensed or vaccinated.*

Section 11. 90.20 of Chapter 90 of the Hermiston Code of Ordinances is repealed and a new Section 90.20, containing the desired amendment, is substituted in its place:

90.20 LICENSES AND RECORDS.

~~(A) Every person owning or keeping any dog which has a set of permanent canine teeth, within 30 days after becoming an owner of the dog, shall obtain from the Finance Director/Recorder a license for the dog by paying to the Finance Director/Recorder a license fee. The license fee shall be \$5 for each spayed female or neutered male dog for which a veterinarian's certificate of operation for the spaying or neutering of the dog is presented to the Finance Director/Recorder. The license fee shall be \$25 for unaltered dogs. If the person fails to obtain the license within the time provided by this section, an additional penalty in a sum established by resolution of the City Council for each dog shall be assessed.~~

~~(B) The Finance Director/Recorder shall at the time of issuing the license and as a part thereof supply the licensee, without charge, with a suitable tag having legibly stamped with dies across one side thereof, to wit: year license issued, license number and to be imprinted with "City of Hermiston, OR." The tag shall be fastened by the licensee to a collar and kept on the dog at all times when not in the immediate possession of the licensee. The license fee shall be the only license or tax required for the ownership or keeping of a dog within the city.~~

~~(C) This section does not apply to dogs owned by dealers, breeders or exhibitors where they are kept in kennels exclusively for sale or exhibition purposes, or while the dogs are being transported by dealers, breeders or exhibitors to and from a dog show or fair. No license shall be required for the dogs kept for these purposes until they are sold or otherwise disposed of to another person.~~

~~(D) No license shall be required to be paid for any dog owned by a blind person who uses it as a guide. A license shall be issued for the dog upon filing with the Finance Director/Recorder an affidavit by the blind person showing the dog to come within this requirement.~~

~~(E) The Finance Director/Recorder shall keep a record of dog licenses in a special book for such purposes.~~

90.19 AFFIRMATIVE DEFENSE.

It shall be an affirmative defense to a dog being found to be a public nuisance for biting or attempting to bite a person if it bites or attempts to bite a person wrongfully provoking the dog or wrongfully assaulting the dog or the dog's owner or keeper, or if it bites or attempts to bite a person trespassing upon premises occupied by the dog's owner after being provoked by that person. It shall be an affirmative defense to a dog being found to be a public nuisance for attacking a domestic animal if the animal is on the property of the dog's owner or keeper without authorization. The defendant shall have the burden of proof as to these affirmative defenses.

Section 12. 90.21 of Chapter 90 of the Hermiston Code of Ordinances is repealed and a new Section 90.21, containing the desired amendment, is substituted in its place:

~~90.21 DESTRUCTION OF CERTAIN DOGS.~~

~~(A) When a dog habitually runs at large and is so elusive, or when a dog kills or seriously injures a person or other animal, or when a dog shows obvious symptoms of being rabid, or if a dog cannot be impounded without grave risk, or if the dog is badly injured and suffering, the police officer may destroy the animal in the safest, most humane way available.~~

~~(B) When a dog has been found by the judge, in a judicial proceeding, to be of vicious temperament, the judge may order the dog to be euthanized either by the owner or by the pound authorities should the dog have been impounded. Destruction will be performed in a humane manner and at the expense of the owner of the dog.~~

90.20 REPORTING AND QUARANTINE OF BITING DOGS

(A) An owner or keeper of a dog that bites a person so as to break the skin shall immediately notify the police department. Any person who is bitten may notify the police department and provide the name and contact information of the owner or keeper, if known.

(B) The police department shall order that dog be quarantined for 10 days if the owner or keeper is unable to provide proof of current rabies inoculation or the dog exhibits symptoms that raise a reasonable concern regarding rabies infection.

(C) The dog shall be quarantined on the owner or keepers' premises in such manner as to prevent it from coming in contact with any animal or person other than the owner or keeper. If the owner or keeper is unwilling, or in the reasonable judgment of the police department, unable to satisfactorily quarantine the dog, it shall be quarantined at a veterinary hospital, animal shelter or kennel at the owner or keeper's expense.

(D) A dog that exhibits symptoms of rabies while under quarantine may be ordered euthanized by the City. Any animal that has been bitten, by an

animal proven to have rabies, may be ordered euthanized by the Chief of Police.

(E) Failure to notify the police department or to properly quarantine a dog is a violation of this subchapter.

Section 13. 90.22 of Chapter 90 of the Hermiston Code of Ordinances is repealed and a new Section 90.22, containing the desired amendment, is substituted in its place:

90.22 IMPOUNDMENT PROCEDURES.

~~(A) All dogs taken up and impounded under this section shall be held in an adequate and sanitary pound which has been inspected by the City Manager or the Manager's designee. Any dog so impounded shall be held for at least five days from the date of the impounding before being placed for adoption, euthanized, or otherwise disposed of.~~

~~(B) After any dog is impounded, the owner will be notified, or, if the owner of the dog is unknown, written notice shall be posted for three days on the city's website describing the dog and the place and time of taking. If the owner appears and redeems the dog, the owner shall pay, in amounts as established by resolution of the City Council, an impoundment fee and in addition a sum for each day, or part thereof, the dog was impounded, this fee being the actual cost of boarding the animal at the pound. The boarding fee will not be assessed for the first day of impoundment if the dog is taken after 8:00 p.m.~~

~~(C) If no owner appears or the owner fails to redeem the dog within five days from its impounding or five days from the date the owner was notified or notices were posted, or if the dog was impounded as a public nuisance for biting or attempting to bite a person, it may be euthanized in a humane manner; except that if, in the opinion of the Chief of Police, the dog is not dangerous and can be safely kept, the Chief of Police may release the dog to any responsible person upon receiving assurance that the person will properly care for the dog and not allow it to become a nuisance, and upon payment of a sum of money as established by resolution of the City Council, plus the cost of keeping during its impounding. The person shall thereafter be liable as owner of the dog.~~

~~(D) Notwithstanding the provisions of subsections (A) and (C) of this section, any dog impounded for biting a person shall be held for not less than ten days before it is released or euthanized to determine if the dog is rabid. (Ord. 2229, passed 4-27-15)~~

90.21 DESTRUCTION OF CERTAIN DOGS.

(A) A police officer may destroy a dog if the police officer determines that:

(1) the dog presents an imminent risk of harm to a person or other animal and the police officer determines that impoundment or containment cannot reasonably be achieved without significant risk of harm to the officer, other persons or animals;

(2) the dog exhibits obvious symptoms of being rabid and containment cannot be reasonably achieved, or

(3) the dog is severely injured and suffering and the police officer determines that immediate destruction is necessary to avoid prolonged suffering. Absent exigent circumstances, the police officer shall take reasonable steps to first notify the owner. If the police officer is safely able to determine that the dog is licensed.

(B) The municipal court may order that a dog be euthanized either by the owner or by the impoundment facility if:

(a) The dog has been found to be a public nuisance by biting a person or killing or injuring livestock or a domestic animal; and

(b) Under the totality of the circumstances, the dog presents a risk of harm to persons or animals.

(C) Euthanasia shall be performed at the expense of the owner of the dog. (Ord. 1503, passed 3-26-84; Am. Ord. 1613, passed 10-27-86; Am. Ord. 2229, passed 4-27-15)

Section 14. Chapter 90 of the Hermiston Code of Ordinances is amended by adding new section 90.23 as follows:

90.22 IMPOUNDMENT

(A) A police officer may impound a dog if the officer has probable cause to conclude that the dog is

(1) creating a public nuisance, other than for failure to have a current license, disturbing any person by frequent or prolonged noises, or failure to pick up feces,

(2) has been abandoned or is at large

(3) the owner or keeper has been taken into custody and impoundment is reasonably necessary for the welfare of the dog,

(4) is subjected to neglect or abuse as defined by the Oregon Revised Statutes and impoundment is reasonably necessary for the welfare of the dog.

Nothing in this section authorizes a police officer to enter onto private property without consent or either a warrant or circumstances constituting an exception to the warrant requirement.

(B) Impounded dogs shall be placed in a veterinary hospital, shelter or other suitable location determined by the City. The owner or keeper promptly will be notified, or, if the owner or keeper of the dog is unknown, notice shall be posted for five days on the website of the person or entity who provides dog licensing services for the City describing the dog and the place and time the dog was impounded. Unless waived by a judge or the Code Hearings Officer, if the owner or person authorized by the owner appears and redeems the dog, the owner shall pay, in amounts as established by resolution of the City Council, an impoundment fee, and in addition, a sum for each day, or part thereof, the dog was impounded, this fee being the actual cost of boarding the animal at the pound. The boarding fee will not be assessed for the first day of impoundment if the dog is impounded after 8:00 p.m. No dog shall be released unless the owner obtains a license, if required by this subchapter, and provides satisfactory proof of rabies vaccination or agreement to immediately obtain any required rabies vaccination.

(C) If no owner or person authorized by the owner appears or fails to redeem the dog, after three days if the owner is known, or after five days if unknown, from the date the owner was notified or notices were posted, the Police Chief or designee may:

(a) Place the dog with an organization or person for adoption if the person or organization has adequate facilities and policies for adoption of dogs; including, at a minimum, that all dogs adopted be

vaccinated and licensed as required under this subchapter and responsibly cared for;

(b) Release the dog to a person for adoption provided the Police Chief or designee or entity designated by the City to handle adoptions, determines that the person seeking to adopt the dog is reasonably capable of responsibly caring for the dog, obtains a license and rabies vaccination if required under this subchapter, pays impoundment fee and any adoption fee, and meets any other standards set by the entity;

(c) Have the dog euthanized. If the owner is known, the owner shall be liable for the cost of impoundment and euthanasia.

(D) Notwithstanding the foregoing, the owner or keeper shall be reimbursed for any impoundment fee paid if a violation related to the impoundment is dismissed or not sustained.

(E) Notwithstanding the provisions of subsections (B) and (C) of this section, the City prosecutor or other person responsible for prosecuting a violation may order that the dog not be released pending the outcome of a prosecution if it is concluded that doing so would create a risk of harm to persons or animals.

Section 15. Chapter 90 of the Hermiston Code of Ordinances is amended by adding new section 90.93 as follows:

90.93 PAYMENT OF FEES. Fees and charges assessed under this subchapter are a debt due and owing to the City and may be collected as provided by law. Failure to pay any fee or charge is a violation.

Section 16. Section 90.99 of the Hermiston Code of Ordinances is repealed and a new Section 90.99, containing the desired amendment, is substituted in its place:

90.99 PENALTY.

~~(A) Anyone who violates any provision of this chapter for which another penalty is not specifically provided commits a Class A violation. (Ord. 4, passed 8-7-07; Ord. 1503, passed 3-26-84; Am. Ord. 1632, passed 6-22-87; Am. Ord. 1976, passed 10-26-98)~~

~~(B) Whoever violates §§ 90.03 through 90.05 commits a Class A violation. Any person who shall attempt to commit any of the offenses mentioned in §§ 90.03 through 90.05, but who for any reason is prevented from consummating the act, shall be guilty of an offense of attempt to commit as to that offense. (Ord. 1976, passed 10-26-98)~~

90.99 PENALTY.

(A) The following are Class 'B' violations:

- (1) Section 90.19 (A) (1) Bites or attempts to bite a person;
- (2) Section 90.19 (A) (2) Chases vehicles or persons;
- (3) Section 90.19 (A) (3) Kills or injures a domestic animal of livestock;
- (4) Section 90.19 (A) (4) Damages or destroys property
- (5) Section 90.19 (A) (9) Interfering with police officer.

(5) Section 90.21 relating to reporting and quarantining a dog
(B) Violation of any other provision of this subchapter is a 'Class D' violation.

(C) The municipal court judge may order the dog euthanized if a violation for biting a person or killing or injuring another animal is sustained and the judge determines that the dog poses a significant risk of harm to persons or animals.

(D) The hearings officer or municipal court judge may suspend or waive some or all of any penalty and require remedial actions as a condition of such suspension, including but not limited to restitution, installation of fencing or other containment and owner and dog training.

(D) Nothing in this subchapter limits the authority of the City or State to prosecute an offense or violation as provided in the Oregon Revised Statutes or restricts the right of a victim to bring an action for damages as provided by law. (Ord. 1976, passed 10-26-98)

Section 17. This ordinance shall take effect on the 30th day after its adoption.

ADOPTED by the Common Council this 25th day of November 2019.

SIGNED by the Mayor this 25th day of November 2019.

Dave Drotzmann, MAYOR

ATTEST:

Lilly Alarcon-Strong, CMC, CITY RECORDER