

## **ORDINANCE NO. 241**

**AN ORDINANCE REPEALING TITLE IX, CHAPTER 92 OF THE DUNES CITY CODE OF ORDINANCES; REPEALING ORDINANCE NUMBER 178, ADOPTED JUNE 9, 2005; ADDING A NEW TITLE IX, CHAPTER 92 OF THE DUNES CITY CODE OF ORDINANCES ENTITLED “ANIMAL CONTROL CODE”; AND OTHER MATTERS RELATING THERETO.**

**WHEREAS**, the Dunes City Council Adopted Ordinance No. 178, on June 9, 2005; and

**WHEREAS**, said Ordinance provides for the regulation of dogs and other animals within the corporate limits of Dunes City; and

**WHEREAS**, at the time of adoption of said Ordinance No. 178, Dunes City was a party to an Intergovernmental Agreement with the Lane County Animal Regulation Authority; and

**WHEREAS**, the Dunes City Intergovernmental Agreement with the Lane County Animal Regulation Authority expired in 2007; and

**WHEREAS**, the Lane County Animal Regulation Authority no longer exists and Lane County no longer provides animal control licensing and control services to small municipalities; and

**WHEREAS**, Oregon Revised Statutes, Section 609.015(2) prohibits the application of Lane County’s dog licensing and control program within the Dunes City limits because Dunes City has its own dog licensing and control program as established under Ordinance No. 178;

**NOW, THEREFORE, THE CITY OF DUNES CITY ORDAINS AS FOLLOWS:**

**Section 1:** Title IX, Chapter 92, Animal Control Code, of the Dunes City Code of Ordinances, and Ordinance Number 178, adopted June 9, 2005, are hereby repealed and the following new Title IX, Chapter 92, Animal Control Code is hereby adopted to read as follows:

### **§ 92.01 ANIMAL CONTROL CODE SUPERCEDES STATE LAW.**

Dunes City Code §§ 92.01 through 92.99 shall be known as the “Animal Control Code.” The purpose of the Animal Control Code is to supersede, to the greatest extent allowed by law, the provisions of ORS Chapter 609 by providing Rules and Regulations governing the keeping, licensing, and control of dogs. These Code provisions do not supersede ORS 609.156, 609.162, and 609.168.

### **§ 92.02 DEFINITIONS.**

For purposes of this Chapter 92, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

**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 SUSCEPTIBLE TO RABIES.** Any domesticated animal that has not been properly vaccinated against rabies. This also includes any raccoon, skunk, fox or coyote.

**BITE.** To seize or take hold of an area of the body, be it animal or human, clothed or unclothed, with teeth or jaws. A bite does not necessary have to result in breaking of the skin or creation of a wound.

**CODE ENFORCEMENT OFFICER.** The Dunes City Code Enforcement Officer, or his or her duly appointed and acting designee.

**DOG.** Any mammal of the *Canidae* family.

**DOG-OFF-LEASH AREA.** Any area within a city park designated by the City Council or the City Council'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 92.21 and 92.22 herein, owner does not include veterinarians or commercial kennel operators temporarily maintaining on their premises for a period less than Thirty (30) calendar 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.

**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.

**LEASH.** Any humane device constructed of rope, leather strap, chain or other sturdy material not exceeding Eight (8) 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, llama, sheep, horse, goat, swine, fowl, and any fur-bearing animal bred and maintained commercially or otherwise within pens, cages or hutches.

**MUZZLE.** A device constructed of strong, soft material or metal placed over an animal's mouth to prevent the animal from biting any person or animal. The muzzle must be made in a manner that will not cause injury to the dog, or interfere with its vision or respiration.

**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 Three (3) or more dogs, over Six (6) months of age, are kept or maintained. Nor more than Two (2) of the dogs shall be used for breeding. The term does not include any animal hospital.

**PEACE OFFICER.** The term "Peace Officer" has the meaning given that term in ORS 133.005 and includes a member of the Oregon State Police, a sheriff or deputy sheriff, and a city police officer.

**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 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 92.01 to 92.99 of this Chapter 92.

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

**POTENTIALLY DANGEROUS.** A dog that has been found to engage in behavior specified in Section 92.27 of this Chapter 92.

**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.

**RESPONSIBLE PERSON.** For violations of this Chapter, the owner of a building or property where a violation or failure to comply has occurred, the person in charge of the building or property, the violator or the person failing to comply with the Dunes City Code, and where such person works for a contractor, either as an employee, subcontractor, or independent contractor, the contractor and/or other employer, and any licensee, permittee, or agent, manager or person in charge.

**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 (8) feet long, Four (4) feet wide and Five (5) feet tall. If the floor is not concrete, the outside walls must extend into the ground not less than One (1) 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, or 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 veterinary medicine.

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

### **§ 92.03 ANIMAL ABUSE.**

A. *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. Animal abuse in the second degree is a Class 2 Violation.

B. *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:

1. Causes serious physical injury to an animal; or
2. Cruelly causes the death of an animal.

Animal abuse in the first degree is a Class 1 Violation.

- C. Any practice of good animal husbandry is not a violation of this Section 92.03.

**§ 92.04 ANIMAL NEGLECT.**

A. *Minimum care required.* 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:

1. Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight.
2. 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.
3. In case of pets or domestic animals, access to a barn, dog house or other enclosed structure sufficient to protect the animal from wind, rain, snow or sun and which has adequate bedding to protect against cold and dampness.
4. Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease.
5. 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 that could affect the animal’s health.

B. *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. Animal neglect in the second degree is a Class 2 Violation.

C. *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:

1. Fails to provide minimum care for an animal in such person’s custody or control; and
2. Such failure to provide care results in serious physical injury or death to the animal.

Animal neglect in the first degree is a Class 1 Violation.

**§ 92.05 EXEMPTION FOR LIVESTOCK, RODEO ANIMALS AND COMMERCIALLY GROWN POULTRY.**

Unless gross negligence can be shown, the provisions of Sections 92.03 to 92.04 of this Chapter 92 shall not apply to the treatment of livestock being transported by owner or common carrier, animals involved in rodeos or similar exhibits or commercially grown poultry.

**§92.06 ANIMAL ABANDONMENT.**

A. 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. Animal abandonment is a Class 3 Violation.

B. It is no defense to the offense defined in subsection A of this Section that the animal was abandoned at or near an animal shelter, veterinary clinic or other place of shelter if reasonable arrangements were not made for the care of the animal.

**§ 92.07 FORFEITURE OF RIGHTS IN MISTREATED ANIMAL; COSTS; DISPOSITION OF ANIMAL.**

A. In addition to and not in lieu of any other penalty allowed pursuant to Dunes City Code, the Dunes City Code Enforcement Officer may require a person found to be guilty of the violations set forth in Sections 92.04 through 92.06 of this Chapter 92 to forfeit any rights of the person in the animal subjected to abuse, neglect or abandonment, and to repay the reasonable costs incurred by any person, Dunes City, or agency in caring for each animal subjected to abuse, neglect or abandonment.

B. When the Dunes City Code Enforcement Officer, orders a person's rights in the animal to be forfeited, the Code Enforcement Officer may further order that those rights be given over to an animal regulation authority for further disposition in accordance with this Chapter 92. 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.

**§ 92.08 ENTRY ONTO PRIVATE LAND.**

The Dunes City Code Enforcement Officer, or any peace officer, shall have the privilege of entering onto private land in the course of enforcing the provisions of this Code, but such shall not enter into any building or dwelling without legal authorization or permission of the owner or occupant of the premises.

**§ 92.09 CARE OF STRAY ANIMALS.**

All persons must turn over to an animal regulation authority stray animals immediately after the person exercises authority over the animal or must notify the animal regulation authority and the City of Dunes City of the description of the animal and the address where the animal is

being kept and be prepared to retain possession of the animal for up to Three (3) days after the animal regulation authority and Dunes City are so notified.

#### **§ 92.10           IMPOUNDMENT OF ANIMALS.**

A.       Any peace officer or the Dunes City Code Enforcement Officer may impound an animal that is in violation of this Code.

B.       An animal shall be impounded if an owner of the animal has not posted bail or paid a fine for a violation of this Code imposed by the Code Enforcement Officer. 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.

C.       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 the Dunes City Code Enforcement Officer or to any peace officer. Any person who so impounds a dog must immediately notify the Dunes City Code Enforcement Officer of such impoundment. No person who has impounded a dog under this subsection shall fail to notify the Dunes City Code Enforcement Officer immediately. Failure to comply with the provisions of this Section 92.10(C) is a Class 4 Violation.

D.       If the Dunes City Code Enforcement Officer or a peace officer has probable cause to believe that a dog is a potentially dangerous dog level 1, 2, 3, or 4, he or she may impound the dog. If the Code Enforcement Officer or peace officer has probable cause to believe that the dog is a potentially dangerous dog level 5, then he or she shall impound the dog. The Code Enforcement Officer or peace officer shall hold the dog until any appeal of the Code Enforcement Officer's decision on the classification is held pursuant to Sections 92.28 of this Chapter 92 and a final disposition rendered.

E.       If the Code Enforcement Officer or 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.

F.       If there is probable cause to believe that an animal is being subjected to treatment in violation of Sections 92.03 to 92.06 of this Chapter, the Dunes City Code Enforcement Officer, or 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 within Seventy-Two (72) hours after the impoundment and such notice shall be sent by certified mail to the address at which the animal was impounded.

#### **§ 92.11           FAILURE TO SURRENDER ANIMAL.**

A. No person shall fail to surrender an animal to a person identifiable as the Dunes City Code Enforcement Officer or a peace officer upon their demand, so that the animal can be impounded or quarantined as provided for by this Chapter 92.

B. Failure to surrender an animal is a Class 2 Violation.

**§ 92.12 INITIALING A FALSE REPORT TO THE DUNES CITY CODE ENFORCEMENT OFFICER.**

A. A person commits the offense of initiating a false report to the Dunes City Code Enforcement Officer if a person contacts the Dunes City Code Enforcement Officer, any Dunes City staff member, or any Dunes City elected official in person, by telephone, in writing, by facsimile or other means and reports a violation of this Animal Control Code that the reporting person knows is false.

B. Initiating a false report to the Dunes City Code Enforcement Officer or any Dunes City staff member or elected official is a Class 1 Violation.

**§ 92.13 RESISTING THE DUNES CITY CODE ENFORCEMENT OFFICER OR PEACE OFFICER.**

A. “Resists” as used in this Section 92.12 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.

B. No person shall intentionally resist someone known by them to be a peace officer or the Dunes City Code Enforcement Officer who is enforcing any provision of this Chapter 92.

C. Resisting the Dunes City Code Enforcement Officer or a peace officer is a Class 1 Violation.

**§ 92.14 IMPOUNDING REGULATIONS AND DISPOSITION OF IMPOUNDED ANIMALS.**

A. The Dunes City Code Enforcement Officer or any 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 Dunes City Code Enforcement Officer or animal regulation authority shall dispose of such animals in accordance with the following provisions:

1. An unlicensed dog or a dog for which the owner is unknown which has not been redeemed within Seventy-Two (72) hours after impoundment may be sold, adopted or destroyed.

2. Except as provided in subsection 92.14(A)(3), a licensed dog for which the owner is known which has not been redeemed within One Hundred and Twenty (120) hours



of notification of the owner by telephone contact or by mailing or by email or by posting at the owner's dwelling the impoundment notice, may be sold, adopted or destroyed.

3. 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 Section 92.14(B):

a. Fails to notify the Dunes City Code Enforcement Officer within One Hundred and Twenty (120) hours of the owner's intent to redeem the dog; or

b. Fails to redeem the dog or appeal the classification within Ten (10) days.

4. Except when state law mandates a different disposition procedure, all animals other than dogs shall be disposed of as provided in Section 92.14(A)(1).

5. Notwithstanding the previous subsections, abandoned or unwanted litters of animals aged Two (2) months or less may be destroyed immediately or, in the alternative, adopted or sold to any person. This provision does not apply to litters impounded following a search of premises as provided in Section 92.27 of this Chapter 92.

B. Except as provided in Section 92.14(A), the Dunes City Code Enforcement Officer shall notify the owner by telephone or by the mailing of an impoundment notice within Twenty-Four (24) hours after impoundment that the animal will be destroyed within One Hundred and Twenty (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 impoundment, daily care and redemption, and the consequences of failure to redeem the animal.

C. Any animal unclaimed within Twenty-Four (24) hours of an order authorizing redemption or release shall be destroyed, adopted or sold.

D. If an order is entered by the Dunes City Code Enforcement Officer for an animal to be destroyed, execution of the order may be stayed for up to Five (5) years after the date of said order, providing that the dog owner and the City, within Ten (10) days of the order, present an agreement for approval to the Dunes City Council signed by both parties and providing:

1. For restitution to be paid to the person injured, if applicable, including damages resulting from the injury to or destruction of livestock, and

2. 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

3. That if the animal is found to be in violation of the safeguards that have been imposed, it may be immediately impounded by the Dunes City Code Enforcement Officer

or his or her designee or a peace officer or any other person and destroyed without further hearing, unless the animal owner requests a hearing in writing to the Dunes City Council within Twenty-Four (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 (4) days after a notice 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.

E. If an order is entered by the Code Enforcement Officer for an animal to be destroyed, execution of the order shall be stayed for Ten (10) days to allow the filing of a notice of appeal. In the event a notice of appeal is filed within Ten (10) days, the animal shall not be destroyed until the disposition of the appeal and only if the Code Enforcement Officer's order is upheld.

F. Notwithstanding the previous subsections, any animal given to the Code Enforcement Officer 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 (6) weeks or more.

G. Notwithstanding the previous subsections, certain sick or injured animals may be destroyed immediately pursuant to the provisions of Section 92.21 of this Code.

#### **§ 92.15 IMPOUNDMENT – REDEMPTION AND SALE.**

A. Redemption of an impounded animal shall be made by exhibiting satisfactory proof of ownership and by paying the following required fees and charges:

1. Impoundment fee;
2. Daily care fee;
3. License and rabies vaccination fees, if required;
4. Medical care fees, if required; and
5. Potentially dangerous dog license fees, if required.

B. In addition to the requirements of Section 92.15(A), a dog that has been classified as potentially dangerous shall not be released until the owner presents to the Code Enforcement Officer sufficient evidence of compliance with the restrictions imposed by Section 92.27. The owner shall have Ten (10) 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 Sections 92.27 and 92.28 of this Chapter 92.

C. Impounded animals may be sold, adopted or destroyed after the applicable holding time.

D. When an animal is sold or adopted out by the Dunes City Code Enforcement Officer, the purchaser or adopter shall pay any required license and rabies vaccination fees.

E. No impoundment charge shall be made for an animal released after:

1. The Code Enforcement Officer's determination that no violation occurred.
2. The Code Enforcement Officer's decision is successfully appealed.
3. A potentially dangerous dog classification is successfully appealed.

F. No live animal shall be used, sold or given by the Dunes City Code Enforcement Officer for surgical or medical demonstration or research.

G. Except as otherwise provided, if after Seventy-Two (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.

H. If an animal is adopted or sold by the Dunes City Code Enforcement Officer, or by any other agency which accepts unwanted or abandoned animals, the owner must have the animal spayed or neutered within Six (6) months from the date of sale if the animal is too young to be spayed or neutered immediately. If an animal over Six (6) months old is adopted or sold by the Code Enforcement Officer or any agency which accepts unwanted or abandoned animals, the animal shall be spayed or neutered within One (1) month after it is turned over to its new owner. Failure of the new owner to comply with the provisions of this Code Section is a Class 1 Violation.

I. No person who is the owner of an animal shall fail to reclaim it from the Dunes City Code Enforcement Officer within the time specified in the notification that the animal is ready to be released. A failure to comply with the terms of this subsection is a Class 3 Violation.

## **§ 92.16 LICENSES, FEES AND EXCEPTIONS.**

A. *Dog Licenses.*

1. The City authorizes the Dunes City Code Enforcement Officer, to issue dog licenses to residents of Dunes City.

2. Every owner of a dog that 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 (5) business days of moving into the City.

3. Licenses shall be valid for One (1), Two (2) or Three (3) years from the date of issuance or until the sale or gift of the dog, whichever first occurs.

4. No license shall be issued until a certificate of vaccination for rabies, valid for the term of the license is presented to the Code Enforcement Officer.

5. Dog owners shall renew the dog license before it becomes delinquent for as long as they own the dog. A late fee may be charged if the license is renewed after it has become more than Thirty (30) days delinquent.

6. 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.

B. The dog license fees shall be the set by Resolution adopted by the City Council and may be changed or amended from time to time also by adopted Resolution of the City Council. 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.

C. *License Fees – Exceptions.*

1. No license fee shall be required for any dog owner who needs and uses the dog as a service dog. A license shall be issued for such dog upon proper proof of rabies vaccination, upon proper proof of doctor's prescription advising the owner needs a service or therapy dog, and upon filing of an affidavit by the person confirming that the dog is currently trained to perform functions that directly assist the owner with his or her disability. Such affidavit shall be filed with the Dunes City Code Enforcement Officer.

2. 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 Thirty (30) days, periodically the City Council may waive all or part of the neutered dog license fee required in this Chapter 92.

D. After application upon a form to be provided by the Dunes City Code Enforcement Officer, a permit may be issued to the license 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.

E. 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 (10) days of the time the dog is classified and annually thereafter. The Dunes City Code Enforcement Officer shall issue or renew a potentially dangerous dog license provided:

1. The owner presents to the Code Enforcement Officer sufficient evidence of compliance with the restrictions imposed by Section 92.27 of this Code; and

2. The owner pays a potentially dangerous dog license fee in the amounts established by the City Council.

F. 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 engages in the behaviors described in Section 92.27 of this Chapter 92, the owner shall notify the Dunes City Code Enforcement Officer of such classification, registration, or fine at the time the owner licenses the dog in Dunes City. If the Code Enforcement Officer classifies the dog pursuant to Section 92.27 of this Chapter 92, the owner shall meet the requirements of Sections 92.29(A)(2) and 92.29(A)(5), except that the initial potentially dangerous dog license fee will be as established by the City Council for previously classified dogs.

#### **§ 92.17 KENNEL LICENSE.**

A. No person shall operate a kennel, whether commercial or non-commercial, without the appropriate kennel license. Kennel licenses shall be valid for One (1) year from the date of issuance.

B. No kennel license shall be issued under this Section to anyone in nonconformity with Chapter 92 of Dunes City Code.

C. The following provisions shall govern revocation of licenses:

1. Three (3) or more violations of any Section of this Chapter 92 within a period of Twelve (12) calendar months shall result in a Notice and Order of revocation of licenses granted under this Section 92.17. Such notice and order shall include a general statement of the reasons for the license revocation and the process to appeal the decision.

2. Such revocation order may be appealed to the City Council within Ten (10) days by the filing of a Notice of Appeal with the Dunes City Administrator and paying the requisite appeal filing fee. Upon receipt of the notice of appeal and filing fee, the matter will be set for hearing at the next regularly scheduled City Council session.

3. The decision of the City Council on appeal is final.

#### **§ 92.18 USES OF A 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.

**§ 92.19           REPORTING OF BITING ANIMALS.**

The owner of an animal susceptible to rabies which bites a human being shall immediately notify the Dunes City Code Enforcement Officer 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.

**§ 92.20           BITING AND RABID ANIMALS – QUARANTINE.**

A.     When the Dunes City Code Enforcement Officer, any Dunes City official, or the departments of public health and human services or public safety of Lane County have 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 Fifteen (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.

B.     Any animal that has been bitten by another animal proved to be rabid shall be destroyed.

C.     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 Public Health Laboratory.

**§ 92.21           SICK OR INJURED ANIMALS.**

A.     Any sick or injured animal found by a peace officer or the Dunes City Code Enforcement 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 Dunes City Code Enforcement Officer 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 Code Enforcement Officer reasonably believes the animal should be destroyed, the animal may be destroyed immediately. If the Code Enforcement Officer reasonably believes the animal should not be destroyed and that treatment is necessary, the animal may be delivered by Dunes City Code Enforcement Officer 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 Seventy-Two (72) hours after being delivered to the veterinarian.

B.     Any peace officer or the Dunes City Code Enforcement 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.

C.     Arrangements for fees, selection of veterinarians, liability of veterinarians, etc., shall be as determined by separate contracts between Dunes City and individual veterinarians.

D. The owner of the animal shall be liable to the veterinarian and to Dunes City, or its duly appointed designee, for all expenses which are incurred for the care of said animal.

**§ 92.22 DOGS AT LARGE PROHIBITED.**

A. No dog owner shall permit a dog to be at large.

B. 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.

C. Committing the infraction of a dog at large is a Class 4 Violation.

**§ 92.23 CONTINUOUS ANNOYANCE.**

A. No animal owner shall permit any animal to cause continuous annoyance.

B. Committing the infraction of a continuous annoyance is a Class 3 Violation.

**§ 92.24 POSSESSION OF FIGHTING ANIMALS.**

A. A person commits the offense of possession of fighting animal(s) if the person has in his or her possession, care, custody or control an animal which is trained to fight another animal, is being trained to fight another animal, has fought another animal in an arranged fight or is intended to fight another animal.

B. Animal pounds, shelters, and humane societies are exempt from the provisions of this Section 92.24.

C. The Dunes City Code Enforcement Officer shall immediately seize any animal reasonably believed to be an animal either used or intended or reasonably believed to be intended for use in animal fighting. Said animal shall be detained pending adjudication of the violation.

D. Procuring animals for fight training purposes, including smaller “bait animals” such as cats, rabbits or small dogs, is prohibited.

E. Possession of a fighting or bait animal is a Class 1 Violation.

**§ 92.25 CAPTURING AND KILLING OF DOG OR CAT.**

A person who, except as otherwise permitted by law, obtains, captures, or otherwise acquires a dog or a cat intending to kill it, and who subsequently does so, commits a Class 1 Violation.

**§ 92.26            POSSESSION OF A STOLEN ANIMAL.**

1.        A person commits the offense of possession of a stolen animal if a person has in his or her care, custody, possession or control an animal not owned by that person and not placed by the owner/caretaker of that animal, in the persons care, custody or control.

2.        Exempt from this Section are animal welfare organizations, persons in the act of taking a stray animal to a welfare organization, taking an animal for emergency veterinary treatment or alteration, caring for a stray animal or returning or attempting to return a lost animal to the rightful owner. It is not required under this Section 92.26 that the animal be reported as stolen to a police agency.

3.        Possession of a stolen animal is a Class 1 Violation.

**§ 92.27            POTENTIALLY DANGEROUS DOG.**

A.        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.

1.        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. Level 1 behavior is a Class 4 Violation.

2.        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. Level 2 behavior is a Class 3 Violation.

3.        Level 3 behavior is established if a dog, while at large, bites or causes physical injury to any domestic animal or livestock. Level 3 behavior is a Class 3 Violation.

4.        Level 4 behavior is established if a dog bites any person. Level 4 behavior is a Class 2 Violation.

5.        Level 5 behavior is established if:

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

b.        A dog, while at large, kills any domestic animal; or

c.        A dog, while at large, kills any livestock; or

d.        A dog engages in or is found to have been trained to engage in exhibitions of fighting; or



e. A dog that has been classified as a Level 4 potentially dangerous dog repeats the behavior described in Section 92.27(A)(4) after the owner receives notice of the Level 4 behavior classification.

Level 5 behavior is a Class 1 Violation.

B. Notwithstanding Section 92.27(A), the Dunes City Code Enforcement Officer shall have discretion to refrain from classifying a dog as potentially dangerous even if the dog has engaged in the behaviors specified in subsection 92.27(A) if the Dunes City Code Enforcement Officer determines that the behavior was a result of the victim abusing or tormenting the dog or other extenuating circumstances.

C. 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 92.18 of this Chapter 92.

D. No dog shall be classified as potentially dangerous if the behavior in question was directed against a trespasser that has illegally entered any residence.

E. Upon application of the dog owner accompanied by the fee established by the City Council, the restrictions for a dog classified under subsection 92.28(A) shall be reviewed by the Dunes City Code Enforcement Officer after Six (6) months for dogs classified as Level 1 or Level 2 and after One (1) year for dogs classified as Level 3 or higher. If the dog owner can show that the behavior that caused the classification has been corrected to the satisfaction of the Dunes City Code Enforcement Officer, then the Code Enforcement Officer may enter an order modifying or deleting the classification.

#### **§ 92.28 IDENTIFICATION OF POTENTIALLY DANGEROUS DOGS; APPEALS, RESTRICTIONS PENDING APPEAL.**

A. The Dunes City Code Enforcement Officer shall have authority to determine whether any dog has engaged in behaviors specified in Section 92.27. This determination shall be based upon an investigation that includes observation of the dog's behavior by the Dunes City Code Enforcement Officer, Dunes City staff or elected officials, or other witnesses who personally observed the behavior and 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 behaviors specified in Section 92.27.

B. The Dunes City Code Enforcement Officer 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 Code Enforcement Officer's decision to the City Council by

filing a Notice of Appeal and paying the requisite appeal fees within Ten (10) days of the date the notice was received by the owner by certified mail or the owner was personally served.

C. The City Council shall hear the appeal from the Code Enforcement Officer'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 92.27 shall be allowed to present testimony. The City Council's decision will be final.

D. Once the owner has received notice of the dog's classification as a Level 1 to Level 4 potentially dangerous dog pursuant to Section 92.28(B), the owner shall comply with the restrictions specified in the notice within Ten (10) days, unless the owner appeals it to the City Council. If the Code Enforcement Officer's decision is upheld on appeal, the dog's owner shall be liable for the cost of the dog's impoundment and the costs incurred by the City for processing and hearing the appeal.

E. If the Code Enforcement Officer finds that a dog has engaged in Level 5 behavior, the dog shall be impounded pending completion of all appeals. If the Code Enforcement Officer's decision is upheld on appeal, the dog's owner shall be liable for the cost of the dog's impoundment and the costs incurred by the City for processing and hearing the appeal.

## **§ 92.29 REGULATION OF POTENTIALLY DANGEROUS DOGS.**

A. In addition to the other requirements of all Sections of this Chapter 92 and restrictions that the Code Enforcement Officer deems reasonable under the circumstances, the owner of a potentially dangerous dog shall comply with the following regulations:

1. 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.

2. 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 Dunes City Code Enforcement Officer approved warning signs on the property where the dog is kept.

3. If the dog has engaged in Level 4 or Level 5 behavior, the owner shall meet the requirements of subsection 92.29(A)(2) 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.

4. Any dog that has been found to have engaged in Level 4 or 5 behavior may be euthanized by order of the Code Enforcement Officer or by order of the City Council, 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 92.29. In addition, the Code Enforcement Officer or the City Council has the authority to

suspend the Level 5 dog owner's right to be the owner of any dog in the City, including dogs currently owned by that person.

5. 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.

6. In addition to obtaining a regular dog license, the owner shall obtain a potentially dangerous dog license pursuant to Sections 92.16(B) and 92.16(E) of this Chapter.

7. The owner of a potentially dangerous dog shall notify the Code Enforcement Officer of the transfer of ownership by sale, gift or otherwise of the potentially dangerous dog and the name and address of the person to whom the potentially dangerous dog was transferred.

B. No person shall own a dog in violation of this Section 92.29 or on the order of the Code Enforcement Officer or City Council pursuant to Section 92.29(A)(4).

#### **§ 92.30 DANGEROUS ANIMALS.**

A. 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.

B. A dangerous animal which has been exposed to the public may be impounded by any peace officer or the Code Enforcement 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 Code Enforcement Officer, must enter findings that proper precautions will be taken to insure the public health and safety.

C. 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, the Code Enforcement Officer, or by a person acting in defense of that person's own self or another person.

D. Violation of this Section 92.30 is a Class 3 Violation.

#### **§ 92.31 RIGHT TO KILL A DOG.**

A. Any dog which, while off its owner's premises, kills, wounds, or injures a human or domestic animal may be killed immediately by any person.

B. Any dog which chases, kills or injures livestock not belonging to the owner, while off the premises owned or under the control of its owner, may be killed immediately by any person.

C. Any person who shoots an animal shall immediately notify the Dunes City Code Enforcement Officer of the shooting, giving a description of the animal, the time and circumstances of the shooting and the name and address of the animal's owner, if known. This Section 92.31(C) does not apply in the case of an animal being shot by the animal's owner.

D. A violation of this Section 92.31 is a Class 1 Violation.

**§ 92.32 LIVESTOCK NOT TO RUN AT LARGE.**

A. 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.

B. Violation of this Section 92.32 is a Class 4 Violation.

**§ 92.33 PARKING OR TETHERING HORSES ON STREETS PROHIBITED.**

A. 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.

B. Violation of this Section 92.33 is a Class 4 Violation.

**§ 92.34 DOG WASTE MATTER.**

A. 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.

B. Violation of this Section 92.34 is a Class 4 Violation.

**§ 92.35 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. Violation of this Section 92.35 is a Class 4 Violation.

**§ 92.36 ANIMAL EUTHANASIA.**

A. No animal agency may put to death a dog or cat by any means other than an 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.

B. No veterinarian or 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 injection of a drug administered by the veterinarian or animal technician.

C. Violation of this Section 92.36 is a Class 3 Violation.

**§ 92.37 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. Violation of this Section 92.37 is a Class 4 Violation.

**§ 92.38 SALE, ETC., OF BABY CHICKS, DUCKLINGS, GOSLINGS OR RABBITS.**

A. 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.

B. Baby chicks, ducklings and goslings younger than Four (4) 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 Twelve (12) birds to an individual person.

C. 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.

D. Violation of this Section 92.38 is a Class 3 Violation.

**§ 92.39 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. A violation of this Section 92.39 is a Class 3 Violation.

**§ 92.40 INTERFERENCE WITH POLICE ANIMAL.**

A. *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:

1. 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

2. 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

3. 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.

4. Interference with a police animal in the second degree is a Class 2 Violation.

B. *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 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. Interference with a police animal in the first degree is a Class 1 Violation.

#### **§ 92.41 CLASSIFICATION OF VIOLATIONS OF ANIMAL REGULATIONS.**

The failure to comply with Dunes City's provisions for animal regulation, unless provided otherwise, shall be classified for the purposes of establishing civil penalties into one of the following categories of violation:

A. *Class 1 Violation.* For a Class 1 Violation, the monetary penalty shall be no less than \$100, nor more than \$500 for a first occurrence. For a second Class 1 Violation occurring within Twelve (12) months from the date of the first occurrence, the monetary penalty shall be no less than \$200, nor more than \$500. For a third Class 1 Violation occurring within a Twelve (12) month period from the date of the first occurrence, the monetary penalty shall be \$500.00

B. *Class 2 Violation.* For a Class 2 Violation, the monetary penalty shall be no less than \$50, nor more than \$250 for the first occurrence. If the responsible person had a prior occurrence of a Class 1 or 2 Violation within Twelve (12) months from the date of the first occurrence, the monetary penalty shall be no less than \$100, nor more than \$250. If the responsible person had Two (2) prior occurrences for a Class 1 or 2 Violation within a Twelve (12) month period for the date of the first occurrence, the monetary penalty shall be \$250.00

C. *Class 3 Violation.* For a Class 3 Violation the monetary penalty shall be \$25 for the first occurrence, \$35 for the second occurrence, \$45 for the third occurrence, and \$55 for each subsequent occurrence within any Twelve (12) month period of time.

D. *Class 4 Violation.* For a Class 4 Violation, the monetary penalty shall be not less than \$10, nor more than \$150 for the first occurrence. If the responsible person had a prior violation within Twelve (12) months from the date of the first occurrence, the fine shall be not less than \$40, nor more than \$150. If the responsible person had Two (2) prior occurrences of a Class 1, 2 or 3 Violation within Twelve (12) months of the date of the first offence, the monetary penalty shall be \$150.00.

§ 92.42 to 92.99 are reserved.

**Section 2. Repeal.** Title IX of the Dunes City Code of Ordinances is amended to repeal Chapter 92 in its entirety, Ordinance No. 178 is also hereby repealed. The repeal of Ordinance Number 178 and Chapter 92 shall not affect any action occurring before the repeal takes effect.

**Section 3. Administrative Fees.** The City Council shall, by resolution, establish and amend fees to cover all or a portion of the expense of implementing and administering this Ordinance.

**Section 4. Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is judicially declared to be invalid, unenforceable, and/or void by a court of competent jurisdiction, such decision shall not have the effect of invalidating or voiding the remainder of this Ordinance, and the part(s) of this Ordinances so held to be invalid, unenforceable, and/or void shall be deemed stricken, and the remainder of this Ordinance shall have the same force and effect as if such stricken part(s) had never been included.

**Section 5. Effective Date.** This Ordinance shall take effect Thirty (30) days from and after the date of adoption.

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The first reading of this Ordinance was conducted in a regular meeting of the City Council of Dunes City, Oregon, on the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

The second reading of this Ordinance was conducted in a regular meeting and adopted by the City Council of Dunes City, Oregon on this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

Ayes: \_\_\_\_\_ Nays: \_\_\_\_\_ Abstain: \_\_\_\_\_ Absent: \_\_\_\_\_ Vacant: \_\_\_\_\_

ADOPTED BY THE DUNES CITY COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 201\_\_.

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Rebecca Ruede, Mayor

ATTEST:

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Jamie Mills, City Recorder