

ORDINANCE NO. 441

AN ORDINANCE REGULATING DOGS WITHIN THE CITY OF FOSSIL AND PROVIDING
PERNALTIES FOR VIOLATION THEREOF AND DECLARING AN EMERGENCY

THE CITY OF FOSSIL ORDAINS AS FOLLOWS:

Section 1: Definition of Terms: As used in ORS 609.035 to 609.110 and 609.990:

(A) "Fossil Ordinance Enforcer" means a person whose duties include, but need not be limited to, enforcing the dog control laws for a dog control district.

(B) "Keeper" means a person who owns, possesses, controls or otherwise has charge of a dog, other than:

- (1) A licensed business primarily intended to obtain a profit from the kenneling of dogs;
- (2) A humane society or other nonprofit animal shelter;
- (3) A facility impounding dogs on behalf of a city or county; or
- (4) A veterinary facility.

(C) "Menaces" means lunging, growling, snarling or other behavior by a dog that would cause a reasonable person to fear for the person's safety.

(D) "Potentially dangerous dog" means a dog that:

(1) Without provocation and while not on premises from which the keeper may lawfully exclude others, menaces a person;

(2) Without provocation, inflicts physical injury on a person that is less severe than a serious physical injury; or

(3) Without provocation and while not on premises from which the keeper may lawfully exclude others, inflicts physical injury on or kills a domestic animal as defined in ORS 167.310.

(E) "Running at large" means that a dog is off or outside of the premises from which the keeper of the dog may lawfully exclude others, or is not in the company of and under the control of its keeper, except if the dog is:

(1) Being used to legally hunt, chase or tree wildlife while under the supervision of the keeper;

(2) Being used to control or protect livestock or for other activities related to agriculture; or

(3) Within any part of a vehicle.

(F) "Serious physical injury" has the meaning given that term in ORS 161.015

Section 2:

(A) No person shall own, possess or be in control of a dog which is a public nuisance as defined by ORS 609.095. A dog is a public nuisance if it:

- (1) Chases persons or vehicles on premises other than premises from which the keeper of the dog may lawfully exclude others;
- (2) Damages or destroys property of persons other than the keeper of the dog;
- (3) Scatters garbage on premises other than premises from which the keeper of the dog may lawfully exclude from others;
- (4) Trespasses on private property of persons other than the keeper of the dog;
- (5) Disturbs any person by frequent or prolonged noises;
- (6) Is a female in heat and running at large; or
- (7) Is a potentially dangerous dog, but is not a dangerous dog as defined in ORS 609.098

(B) A keeper of a dog maintains a public nuisance if the keeper fails to comply with reasonable restrictions imposed under ORS 609.990 or if a keeper fails to provide acceptable proof of compliance to the city on or before the 10th day after issuance of the order imposing the restrictions. If the city finds the proof submitted by the keeper unacceptable, the city shall send notice of that finding to the keeper no later than five days after the proof is received.

(C) Any person who has cause to believe a keeper is maintaining a dog that is a public nuisance may complain, either orally or in writing, to the city. The receipt of any complaint is sufficient cause for the city to investigate the matter and determine whether the keeper of the dog is in violation of subsection (A) of Section 2.

(D) Each dog shall be registered as follows:

- 1) Every dog that resides within the corporate limits of the City of Fossil and has developed permanent canine teeth or is six months old, whichever occurs first, shall be registered according to the terms and requirements herein. No registration may be issued without proof of **rabies and parvo** inoculation as provided herein. At registration, a five (5) dollar tag fee will be collected and a numbered tag will be issued.

2) Prior to the issuance of such registration, the City, pursuant to ORS 433.375 shall require proof of rabies and parvo inoculation that is valid for the entire year for which the registration is applied, and properly certified by a licensed veterinarian, unless the dog for which the registration is applied is specifically exempted by the State Health Division or the State Department of Agriculture. The City Recorder will keep on record the date of said inoculation for future registration years. Where the dog is too young or otherwise not able to receive his inoculation safely, a veterinarian's certificate as to this fact may be submitted in lieu of rabies or parvo inoculation.

(E) A dog that is roaming or running at large may be impounded. Whenever a dog is impounded pursuant to the provisions of this ordinance and the owner or custodian of the dog is known to the Fossil Ordinance Enforcer, the Enforcer shall forthwith give written notice of the impounding by personal service or a certified letter return receipt requested upon the owner or custodian, and if the owner or custodian does not within five (5) days after the date of service or mailing of the notice, claim the dog, said dog shall be humanely disposed in accordance with ORS 609.405 or given for adoption to a suitable home.

Section 3: Penalties

Any person violating Section 2 of this Ordinance shall be fined as follows:

A) First violation a warning notice will be delivered by personal service by the Fossil Ordinance Officer and/or by certified letter return receipt.

1) A second violation occurring in the same 12 month period will cause a second warning notice issued and delivered by personal service by the Fossil Ordinance Officer and/or by certified letter return receipt.

2) A third violation in the same 12 month period will cause a citation issued.

B) ORS 609.990 provides that the violation would be a Class B Violation. Penalties for violations are as follows: 153.018 Maximum fines.

(1) The penalty for committing a violation is a fine. The law creating a violation may impose other penalties in addition to a fine but may not impose a term of imprisonment.

(2) Except as otherwise provided by law, the maximum fine for a violation committed by an individual is up to:

(a) \$1,000 for a Class B violation.

(3) Violators shall be cited into Justice Court.

Because prompt action on dog issues is needed for the peace, health and safety of the people of the City of Fossil, an emergency is declared to exist, and this ordinance is effective upon its passage by the Fossil City Council.

A public hearing was held on September 11th, 2012 at 6:00pm to discuss this proposed ordinance with the residents of Fossil.

A work session with several volunteers from the community was held on October 5th, 2012 at 1:30pm to discuss and rewrite this proposed ordinance.

A second public hearing was held on Tuesday January 22nd, 2013 at 6:00pm to discuss this proposed dog ordinance.

A third public hearing was held on Tuesday February 12th, 2013 at 6:30pm to discuss this proposed dog ordinance.

Ordinance read in its entirety February 12, 2013.

Ordinance read by title only February 12, 2013.

Passed by Fossil City Council February 12, 2013.

Approved and signed by the Mayor February 12, 2013.

Jack Lorts, Mayor

ATTEST:

Angelica Humphreys, Council President