



City Hall – Council Chambers
206 N. Main Street
Toledo, Oregon 97391
6:00 p.m.

TOLEDO CITY COUNCIL
Regular Meeting – also via Zoom Meeting Platform
November 16, 2022

Virtual Meeting: The City Council will hold the meeting for the City Council and staff in person as well as through the Zoom video meeting platform. The public is encouraged to attend the meeting electronically. Visit the meetings page on the city website for details including meeting login information.

Public Comments: The City Council may take limited verbal comments during the meeting. Written comments may be submitted by email to lisa.figueroa@cityoftoledo.org 3:00 p.m. the day of the meeting to be included in the record. Comments received will be shared with the City Council and included in the record.

1. **Call to Order, Pledge of Allegiance and roll call**
2. **Proclamations/Presentations**
Presentation – Life Saving Award Presentation, Fire Department
Presentation – Georgia Pacific Mill, Public Affairs Manager Jonathan Farmer
3. **Visitors/Public Comment**
(The public comment period provides the public with an opportunity to address the City Council regarding items not on the agenda. Please limit your comments to three (3) minutes).
4. **Consent Agenda**
There are no items for consideration
5. **Discussion Items**
There are no items for consideration
6. **Decision Items**
 - Consideration of street closure request from the Chamber of Commerce
 - Ordinance No. 1403, An Ordinance amending the Toledo Municipal Code by repealing Section 4 of Ordinance 820 (1966), as amended by Section 9 of Ordinance 1294 (2001), amending Ordinance 1294 (2001) and declaring an emergency
7. **Reports and Comments**
 - Committee updates
8. **Adjournment**

Comments submitted in advance are preferable. Comments may be submitted by e-mail at lisa.figueroa@cityoftoledo.org. The meeting is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting by calling city offices at (541) 336-2247.

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**CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION**

	Meeting Date:	Agenda Topic:
	November 16, 2022	Consideration of street closure request from the Chamber of Commerce
Council Goal:	Agenda Type:	
Not Applicable	Decision Items	
Prepared by:	Reviewed by:	Approved by:
City Recorder L. Figueroa	City Manager Judy Richter	City Manager Judy Richter

Recommendation:

Motion to approve the street closure request from the Chamber of Commerce.

Background:

An application was submitted by the Toledo Chamber of Commerce for their annual Tree Lighting event. This year they included a request to close Main Street for an umbrella parade. The closure will be between 5:00 p.m. & 6:00 p.m.

Their application and a copy of the map with the potential street closure is included.

Fiscal Impact:	Fiscal Year:	GL Number:
N/A	2021-2022	N/A

Attachment:

1. Toledo Chamber of Commerce outdoor event application



CITY OF TOLEDO
Outdoor Public Events, Entertainments
and Assemblies Permit Application

Criteria for Approval/Denial of Application:

In issuing a permit for a special event, the City considers whether:

- The event is reasonably likely to cause injury to persons or property.
- The proposed location is adequate for the size and nature of the event.
- All permit requirements have been met.
- ODOT and/or Lincoln County Permits have been secured (if applicable).
- OLCC permit has been obtained (if applicable).
- All required insurance documents are submitted.
- Previously identified issues have been addressed in the application.
- Public safety and public works employees are available to assist with the event.
- There are conflicts with other events or festivals previously scheduled.
- Traffic there will be impacts to transportation system or major traffic routes in, out and through the City of Toledo.

APPLICANT/ORGANIZATION INFORMATION (PERSON/GROUP RESPONSIBLE)

Sponsoring Organization Name: TOLEDO Chamber OF Commerce

Organization Type: ☐ For profit ☒ Non-profit ☐ Other(type below):

List other type here: _____

Contact Name
(If different from applicant): Kathy CRANE

Phone Number: 541-270-5022 Business Phone: 541-336-3183

Organization address: TOLEDO Chamber OF Commerce
TOLEDO OREGON 97391
City State Zip Code

Mailing address
(If different from above): P.O. Box 249
TOLEDO OREGON 97391
City State Zip Code

E-mail address: _____

ALTERNATE CONTACT & POINT OF CONTACT AT EVENT

Alternate Contact: _____

Alternate Contact Phone #: _____

Contact Person (on-site at event): Kathy CRANE

Cell Phone during event: 541-270-5022



CITY OF TOLEDO
Outdoor Public Events, Entertainments
and Assemblies Permit Application

EVENT INFORMATION

Name of Event: _____

Event occurrence?:

☒ Once (1x)

☐ Weekly

☐ Monthly

☐ Other*

*List how often event will occur
(e.g. bi-weekly)

Date(s) of Event:

November 26, 2022

Starting time:

5:00 (a.m. / p.m.)

Ending time:

6:00 (a.m. / p.m.)

Event Location:

MAIN STREET TOLEDO, OREGON

***Note:** Except for Memorial Field all City parks are available on a first come first serve basis. The Waterfront Pavilion is managed and maintained by the Port of Toledo.

Setup date(s)

(if different from day of event):

Starting
time

5:00 (a.m. / p.m.)

Ending
time

6:00 (a.m. / p.m.)

Take down date(s)

N/A

Starting
time

____ (a.m. / p.m.)

Ending
time

____ (a.m. / p.m.)

This event is a (check all that apply):

☐ Bicycle event

☐ Concert

☐ Market/Sales event

☒ Other

(please briefly explain here):

☐ Celebration of Life

☐ Church/Religious event

☐ Reunion

☐ Competition

☐ Festival

☐ Run/Walk

Event (brief) description:

TOLEDO TREE LIGHTING CEREMONY & COMMUNITY PARTY
PARADE, LIGHTED, DOWN MAIN STREET

Estimated attendance per day:

☐ 0-49

☒ 50 or more

Public right of way (ROW) or
street location:

☐ Sidewalk only

☐ Street Only

☒ Street & Sidewalk

SITE LAYOUT, TRAFFIC CONTROL & PARKING

Will the event require the closure of public streets?

☒ Yes

☐ No

☐ Not sure

(Required: a legible and detailed map that includes the start point, end point, direction of travel and street names)

Name(s) of streets to be closed (attach additional closures on a separate sheet if necessary)

MAIN STREET

Between
Between

And
And

Will your street closure request affect Lincoln County Transit or
the School District bus route?

☐ Yes

☒ No

☐ Not sure

Will the event require use of sidewalks or other public Right of
Way?

☒ Yes

☐ No

☐ Not sure

***Note:** Public Right of way refers to the type of easement that is reserved over the land for public use such as the area between the sidewalk and the road.

***Note:** If the event requires that a street will be closed/blocked, an 11-foot fire lane must be provided.

All applicants must attach a Site Layout Plan and Traffic Control Plan to this application; however components required will vary by event.



CITY OF TOLEDO

Outdoor Public Events, Entertainments and Assemblies Permit Application

Site Layout Plans include at a minimum the location of tents, stages, portable restrooms, fencing, food booths, alcoholic/non-alcoholic beverage booths as well as adequate parking facilities (such parking facilities shall provide parking space for one vehicle for every four persons expected or reasonably expected and adequate ingress and egress to/from parking area and any other components of the event the City may request.

Traffic Control Plans include at a minimum, the location of barricades, directional signs, certified flaggers, course marshals, assembly and/or production facilities, emergency access routes, aid and first aid stations, trash and recycling receptacles, parking and any other components of the event. Traffic control devices such as barricades may be rented or purchased from local companies.

***Note:** Approved temporary events that require City resources (e.g. staffing, supplies, barricades, etc.) may require fees, which will be assessed on a case by case basis.

Do you intend to use a City owned parking lot?

☐ Yes

☐ No

If yes, please name the location: _____

ADDITIONAL CONSIDERATIONS

Will food be served or prepared at your event?

☐ Yes

☒ No

Will alcoholic beverages be available at your event?

☐ Yes

☒ No

If so, you or the alcoholic beverage provider must obtain an Oregon Liquor and Cannabis Commission (OLCC) permit by calling 541-265-4522 or visit www.oregon.gov/olcc for more information. A copy of your application must be provided to the City.

Will there be any live or amplified entertainment, music or noise generated at your event?

☐ Yes

☒ No

***Note:** Amplified music or noise is prohibited within one thousand (1,000) feet of any residence between the hours of 12:01 a.m. and 9:00 a.m. and in all other areas between 2:00 a.m. and 9:00 a.m.

***Note:** The event sponsor shall obtain all music licensing and copyright licenses required for all music presentations and performances.

Will you need access to power/electricity for your event?

☒ Yes

☐ No

Will you need access to water for your event?

☐ Yes

☒ No

Will your event require restroom facilities?

☐ Yes

☒ No

Do you plan to setup a structure (e.g. Recreational Vehicle) as a living quarter or to conduct business at your event?

☐ Yes

☒ No

If so, a Temporary use permit application will need to be completed and submitted with the associated fee for your special event structure.

Will your event have overnight camping/sleeping?

☐ Yes

☒ No

Have you arranged for certified security at your event?

☐ Yes

☒ No

If so, who will provide security?

Chamber of Commerce
Kathy Director @ ToledoDragon.org

Phone number:

E-mail address:

Details of security plan:

541-270-5022

***Note:** Private Security must be certified and licensed as an Event and Entertainment Professional by the Oregon Department of Public Safety Standards and Training.

Describe your Emergency Medical Services Plan (including first aid stations, first aid kits, equipment such as AEDs, etc.)

The City recommends at least one trained emergency services provider (Advance Life Support ALS, Basic Life Support BLS or First Aid CPR) be present on-site throughout the temporary event.



CITY OF TOLEDO
Outdoor Public Events, Entertainments
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Describe your plans for trash minimization and removal. Recycling is strongly encouraged. (Include information such as to the number, types and locations of all recycling and trash receptacles, a schedule for monitoring and emptying receptacles and plans for cleaning up debris not placed in receptacles and who will provide trash related services. Attach additional sheets if necessary.)

The Chamber & ~~BETA~~ will control trash

APPLICANT ACKNOWLEDGEMENT

APPLICANT IS RESPONSIBLE FOR OBTAINING ALL ADDITIONAL PERMITS, LICENSES, AND INSURANCE CERTIFICATES REQUIRED UPON THE ISSUANCE OF THIS TEMPORARY EVENT PERMIT. Please fulfill all of the obligations listed below before submitting this application. Once all of these obligations are complete you must place your initials in all of the designated areas marked with a () and then sign and date at the bottom.

(X) **CLEAN UP:** Applicant agrees to promptly clean up all paper or debris caused by applicant's use of the area and understands that if such cleanup is not promptly undertaken the City reserves the right to do the cleaning itself and to charge the applicant for the actual time and expense incurred. The City reserves the right to deny future Outdoor Event Permit requests should applicant not fulfill all conditions of this permit application.

(X) **INSURANCE:** Applicant agrees to provide a policy of liability insurance, specific to the Event, as above-described in the Insurance Requirements Section, and further described in this Paragraph. This insurance shall provide coverage for not less than \$1,000,000 for personal injury to each person, \$1,000,000 for each occurrence involving property damage; or a single limit policy of not less than \$2,000,000 covering all claims per occurrence. The limits of the insurance shall be subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon. This insurance shall be without prejudice to coverage otherwise existing insurance and shall name as additional insured the City of Toledo and its officers, agents, directors, employees and volunteers as an additional insured by endorsement. The sponsor agrees to maintain continuous coverage for the duration of the permit.

(X) **INDEMNITY:** Applicant agrees to defend, indemnify and hold the City of Toledo harmless from and against all claims, losses, and liability arising out of personal injuries, including death, and damage to property which are caused by applicant, or arising out of or in any way connected with the activities conducted pursuant to this application. The last page of this application contains an agreement form that you must sign and date before this application is reviewed.

(X) **CITY CODES/PERMITS:** Applicant agrees to obtain all city permits and licenses that may be required, and shall comply with all other city laws and other conditions that the City Manager determines necessary.

(X) **CONDUCT/NUISANCES:** Applicant understands that if the outdoor activity is conducted in such a way as to create a nuisance for any business or resident of the area, future permits may be denied for that reason alone. Applicant will be notified as soon as practical that the activity engaged in created a nuisance and may ask for a review of such determination. *insert statement about public safety and shutting down an event.

(X) **SITE /TRANSPORTATION MAP:** This application will not be processed unless a detailed site map is included. Indicate location of tents, stages, portable restrooms, fencing, food booths, alcoholic and non-alcoholic beverage booths, etc. Transportation/route maps should include: location of barricades, directional signs, certified flaggers and course marshals, assembly and/or production facilities, emergency access routes, aid and first aid stations, porta-potties, trash and recycling receptacles, parking, etc.

(X) I have read all information contained within the City of Toledo's Temporary Event Permit Application Packet and agree to abide by the terms and conditions contained herein.



CITY OF TOLEDO
Outdoor Public Events, Entertainments
and Assemblies Permit Application

INDEMNIFICATION AGREEMENT

GRANTEE ACKNOWLEDGES AND AGREES AS FOLLOWS:

The Applicant named below, its officers, employees and members shall, through the signing of this agreement by an authorized party or agent, hereby agrees, for and in consideration of the approval of the Event listed below, to be held on the date listed below, and to be held within the City of Toledo, to indemnify, defend and hold harmless the City of Toledo, a political subdivision of the State of Oregon, its officers, agents, directors, employees and volunteers, herein called "City," from any and all suits and claims, losses and liability, including attorney's fees, arising from injury or death to persons or damage to property occasioned by any act or omission arising out of or any way related to the event as described above, without limitation, or participation in the event as a participant, spectator, sponsor, promoter, agent or official. Applicant acknowledges that applicant has carefully read the foregoing and understands its contents. Applicant warrants that they are authorized to sign this document personally and on behalf of the organization or corporation sponsoring the event and does so freely and without reservation.

Applicant's Name:

Kathy CRANE

9-23-2022

Sponsor Name:

TOLEDO Chamber of Commerce

Date:

9-25-2022

Sponsor Signature by
authorized party:

Kathy M. Crane

Name of the event:

TOLEDO TREE Lighting Ceremony

Date(s) of the event:

11-26-2022

Toledo, Oregon



CITY OF TOLEDO REQUEST FOR COUNCIL ACTION

	Meeting Date:	Agenda Topic:
	November 16, 2022	Ordinance No. 1403, An Ordinance amending the Toledo Municipal Code by repealing Section 4 of Ordinance 820 (1966), as amended by Section 9 of Ordinance 1294 (2001), amending Ordinance 1294 (2001) and declaring an emergency
Council Goal:	Agenda Type:	
Not Applicable	Decision Items	
Prepared by:	Reviewed by:	Approved by:
City Attorney M. Adams	City Manager Judy Richter	City Manager Judy Richter

Recommendation:

(1) Adopt the draft ordinance as presented; or (2) Direct staff to make revisions and bring back to a future Council meeting.

Proposed motion to adopt:

Motion to adopt Ordinance No. 1403, an ordinance of the Toledo City Council amending the Toledo Municipal Code by repealing Section 4 of Ordinance 820 (1966), as amended by Section 9 of Ordinance 1294 (2001), amending Ordinance 1294 (2001) and declaring an emergency by title only (**Title read twice**)

Background:

The ordinance replaces Chapter 6.04, “Animals,” with “Dogs.” One level up, “Title 6” of the Toledo Municipal Code (TMC) keeps the name of “Animals.” The future “Animal” ordinance will occupy Chapter 6.08, and in preparation, this ordinance also deletes TMC 8.04.040, Livestock and Poultry. As the city is limited in staff, this draft code allows the “officer,” the city’s employee (including law enforcement), to refer a dog to a Lincoln County Animal Control Officer for any violations of the code (See TMC 6.04.100(B)), at any point in the enforcement process (See TMC 6.04.100(D)), including for possible impoundment (See 6.04.100). In the county’s process, Lincoln County Code (LCC), Chapter 2, Animal Control, if impounded (i.e. seized and taken); a hearing before a “Dog Judge” is triggered, utilizing the provisions in Oregon Revised Statute Chapter 609 to determine, amongst other issues, if a dog is “dangerous” or “potentially dangerous” and what should occur, including possibly a decision for humane destruction of the dog (See LCC 2.720(3)). If a dog is “dangerous,” “potentially dangerous,” or put on “probation,” the city has imposed additional requirements on the owner and dog (See TMC 6.04.100). There are a number of references to the Lincoln County Code throughout the ordinance, which will need to be amended if the County amends its ordinance, but the references are needed for understanding.

Pursuant to City Charter, Chapter XI – Ordinances, Section 31, a copy of the ordinance has been provided to each councilor, three copies available for public inspection, and copies posted at City Hall, PD and Library. If no City Councilor objects, the ordinance can be adopted, by the title being read twice, in this one meeting.

Fiscal Impact:	Fiscal Year:	GL Number:
Unknown	2021-2022	N/A

Attachment:

1. Ordinance No. 1403 revising TMC Chapter 6.04
2. TMC 8.04.040 to be deleted
3. Lincoln County Code, Chapter 2, Animal Control

**CITY OF TOLEDO
ORDINANCE NO. 1403**

AN ORDINANCE OF THE TOLEDO CITY COUNCIL AMENDING THE TOLEDO MUNICIPAL CODE BY REPEALING SECTION 4 OF ORDINANCE 820 (1966), AS AMENDED BY SECTION 9 OF ORDINANCE 1294 (2001), AMENDING ORDINANCE 1294 (2001), AND DECLARING AN EMERGENCY

WHEREAS, the City Council has a duty to ensure and protect the public health, safety and welfare of all residents of Toledo; and

WHEREAS, the City Council recognizes that aggressive – not to mention roaming or barking dogs – can be a major livability issue in city neighborhoods and create administrative headaches; and

WHEREAS, the general rule is that dogs are considered personal property, and as such, a city wishing to regulate dogs within its jurisdiction is empowered to do so under the city’s police power; and

WHEREAS, the city must not violate an individual’s constitutional due process rights by failing to establish proper hearing and appeal procedures; and

WHEREAS, because of issues that need current attention, the public welfare requires that this ordinance take effect immediately upon approval.

NOW THEREFORE, THE CITY OF TOLEDO ORDAINS AS FOLLOWS:

Section 1. Section § 4 of Ord. 820 (1966), amended by Section § 9 of Ordinance 1294 (2001), and Section § 8.04.040, is repealed.

Section 2. Sections 3 through 21 of this Ordinance are added to and made a part of the Toledo Municipal Code, Chapter 6.04, and deleting the name of the chapter “Animals,” and replacing with “Dogs,” as indicated.

Section 3. Section § 1 of Ord. 1294 (2001) and Section § 6.04.010 is repealed, and replaced with the following in Section § 6.04.010, to read as follows:

6.04.010 – Short Title.

This ordinance may be referred to as the “Dog Ordinance of the City of Toledo.”

Section 4. Section § 2 of Ordinance 1294 (2001) and Section § 6.04.020 is repealed, and replaced with the following in Section § 6.04.020, to read as follows:

6.04.020 - Construction and interpretation.

A. This chapter is intended to require control of dogs within the city, establish penalties for violation, and provide for enforcement.

B. The provisions of this chapter are intended to harmonize with Lincoln County Code (LCC), Chapter 2, Animal Control, and ORS Chapter 609 and as may be amended hereafter. If interpretation of any provision of this chapter is required in order to apply or enforce its requirements, the more restrictive provision shall apply.

C. The city may investigate any complaint arising under this chapter and issue a citation for violation of any of its provisions.

D. Nothing in this chapter shall limit or restrict the authority of the city or the county to impound and humanely destroy dogs pursuant to ORS Chapter 609.

Section 5. Section § 3 of Ord. 1294 (2001) and Section § 6.04.030 is repealed, and replaced with the following in Section § 6.04.030, to read as follows:

6.04.030 – Definitions.

“Animal Control Officer” or “ACO” means Lincoln County’s employee, who enforces the process in the chapter 2 of the Lincoln County Code (LCC), which incorporates applicable Oregon Revised Statute (ORS) Chapter 609 provisions.

“Animal facility” means any site where animals are kept that functions as a licensed research animal facility or a government operated or licensed animal shelter or private enterprise, used for commercial purposes.

“At Large” means a dog or other animal inside the corporate limits of the City, off the premises of the owner, and not under complete control by adequate leash or voice command.

“City” means the City of Toledo, Oregon.

“Communicable disease” means a disease carried by a dog which may be transmitted to another animal or to humans.

“Confinement area” means any site where a dog is contained or kept on private property, including grounds and housing structures.

“Control” means a dog is under control if restrained from placing others at risk, whether by physical control device, or trained to respond to verbal commands and in close proximity to and in view of the owner.

“County” means the county of Lincoln, Oregon.

“Court” means the municipal court of the city of Toledo, Oregon, or other court of competent jurisdiction.

“Dangerous Dog” means a dog that without provocation and in an aggressive manner inflicts serious physical injury or death on a person or is found to have been used as a weapon in the commission of a crime or is declared dangerous under this chapter. A dog which has bitten and broken the skin of a person on two occasions without provocation is presumed to be a “dangerous dog.”

“Dog” means any mammal of the canidae family.

“Impoundment” means seizing and confining a dog by any police officer or any other public officer under the provisions of this Ordinance.

“Minimum care” means care sufficient to preserve the health and well-being of a dog and, except for emergencies or circumstances beyond the control of the owner, includes, but is not limited to, the following requirements:

1. Sufficient food to maintain the dog’s health.
2. Access to potable water to satisfy the dog's needs. Snow or ice is not an adequate water source.
3. Access to a barn, house or other enclosed structure for the protection of the animal.
4. Access to an exercise area on a regular basis as required for the health and wellbeing of the dog.
5. Veterinary care to relieve distress from injury or disease.
6. Confinement area having adequate space and ventilation.

“Muzzle” means a device constructed of strong, soft material or of metal, designed to fasten over the mouth of a dog that prevents the dog from biting any person or other animal and that does not interfere with its respiration.

“Officer” means any sworn police officer, or any person employed or appointed by the City Manager who is authorized to investigate and enforce violations relating to dog control or cruelty or otherwise under the provisions of this chapter.

“Owner” means any person, partnership, or corporation having a right of property in a dog or who harbors a dog or who has it in the care of the person, or acts as its custodian, or who knowingly permits a dog to remain on or about any premises

occupied by the person. “Owner” does not include veterinarians or kennel operators temporarily maintaining on their premises dogs owned by other persons for a period of not more than 30 days.

“Person” includes any natural person, association, partnership, organization or corporation.

“Potentially Dangerous Dog” means a dog that *while at large*: 1) Without provocation, behaves in a manner that a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to a person or household animal or livestock; or 2) Without provocation, causes physical injury to a household animal or livestock.

“Provocation” means any action or activity, whether intentional or unintentional, which would be reasonably expected to cause a normal dog in similar circumstances to react in a manner similar to that shown by the evidence. For example, where a person is abusing or tormenting the dog or other extenuating circumstances.

“Sanitary Condition” means a condition of good order and cleanliness to minimize the possibility of disease transmission.

“Serious Physical Injury” means physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

Section 6. Section § 4 of Ord. 1294 (2001) and Section § 6.04.040 is repealed, and replaced with the following in Section § 6.04.040, to read as follows:

6.04.040 – Officer’s authority to cite; refer to County.

A. An officer shall determine whether a violation of any section or sections of this ordinance has occurred. The determination shall be based upon an investigation that includes observation of the location, the dog, or through the statements to an officer or other witnesses who personally observed the violation.

B. An officer may refer the dog to the county’s ACO under TMC 6.04.100 to be dealt with under the laws of the county as provided in this chapter.

Section 7. Section § 5 of Ord. 1294 (2001) and Section § 6.04.050 is repealed, and replaced with the following in Section § 6.04.050, to read as follows:

6.04.050 – Owner’s duties.

A. Licensing of Dogs. A dog shall be licensed according to the laws of the county. Exceptions to this requirement are dogs owned or located at an animal facility.

B. Disease Control.

1. No owner shall permit any dog that is afflicted with a communicable disease to come in contact with another animal or human that is susceptible to the affliction other than medical personnel for treatment.

2. Any owner of a dog shall remove excrement or other solid waste deposited by that dog on maintained areas of public property, and on private property not owned or under the control of the owner, unless posted otherwise.

3. Excrement, waste and contaminants shall be removed from confinement areas as often as necessary to prevent parasite contamination, reduce disease hazards and minimize odors.

C. Animal Housing and Restraint. If appropriate to the type of animal:

1. Dog housing structures shall be adequately constructed and maintained in good repair to protect both the dog and the public from injury, safely confine any dog housed therein, and prevent entry of other animals that may be dangerous to the dogs within the enclosure.

2. Housing structures shall be dry and adequately sealed to prevent cold air and moisture from entering the enclosure. The primary enclosure for dogs shall be of sufficient size to permit each dog housed therein to stand freely, sit, turn around and lie in a normal position, unless not warranted for specific commercial purposes.

3. Confinement areas shall provide protective shading and adequate shelter areas designed to minimize harmful exposure to weather conditions for those dogs not acclimatized to the environment.

4. When restraining devices are used in connection with a confinement area intended to permit movement outside the housing structure, such devices shall be adequate in strength and installed in a manner to prevent entanglement with the devices of other animals or objects, and shall be fitted to the dog by a harness or well-fitted collar, other than a choke type collar, and shall not be shorter than three times the length of the animal as measured from the tip of its nose to the base of its tail.

5. Physical control devices must be used with dogs when off or outside the property of the owner unless the animal is field trained to respond to verbal or hand command.

D. Running at Large Prohibited. No dog shall be permitted to run at large.

E. Minimum Care. No owner shall maintain a dog without providing minimum care.

Section 8. Section § 6 of Ord. 1294 (2001) and Section § 6.04.060 is repealed, and replaced with the following in Section § 6.04.060, to read as follows:

6.04.060– Public duties.

A. Aiding Injured Dogs. Any person operating a vehicle, as defined by the Motor Vehicle Act of the state of Oregon, who runs over, strikes, injures, maims or kills a dog shall immediately stop, render care, and notify the owner of the dog, if known, or notify any law enforcement agency with jurisdiction in the area of the incident, and remain at the scene until released by said law enforcement agency.

B. Refusing to Assist an Officer. A person commits the offense of refusing to assist an officer if, upon command by an officer known by the person to be an officer, the person unreasonably refuses or fails to assist in effecting an authorized action or prevents another from effecting an authorized action.

C. Interference with an Officer. It shall be unlawful for any person to interfere with or hinder an officer while that officer is enforcing this ordinance.

Section 9. Section § 7 of Ord. 1294 (2001) and Section § 6.04.070 remains unchanged, to read as follows:

6.04.070 - Penalties.

A. Separate Violations. Each day's violation of any section of this ordinance constitutes a separate offense.

B. Violation of Sections. Violation of any section of this ordinance is a class "C" violation, unless otherwise specified.

C. Repeat Offenses. Second and subsequent violations of the same chapter of this ordinance that occur within a twelve month period are a class "B" violation, unless otherwise specified.

Section 10. Section § 8 of Ord. 1294 (2001) and Section § 6.04.080 is repealed, and replaced with the following in § 6.04.080, to read as follows:

6.04.080 - Prohibited activities.

A. Dogs at Large. It shall be unlawful for an owner to permit, either by negligence or by intention, any dog to run at large.

B. Dangerous Dogs. It shall be unlawful to keep in the city any dog that is dangerous, potentially dangerous, or on parole under LCC 2.720, except as provided in TMC 6.04.120.

C. Public Nuisances. It shall be unlawful to keep or maintain within the city any dog that has been deemed a public nuisance pursuant to TMC 6.04.130.

D. Illegal Killing. Except as allowed by statute or state regulation:

1. No person shall knowingly or recklessly kill an animal not owned by that person without the permission of the owner, unless a reasonable person in the same or similar circumstances would have been put in fear of imminent death or serious physical injury of a person. It is only reasonable if the actions in response to the threat were limited to the least restrictive means to avoid the potential harm or injury to a person. If not the least restrictive means, it is not necessary for the protection and safety of a person and not a justified killing under this chapter.

2. No person shall knowingly place food of any description containing poison or other injurious ingredients in any area reasonably likely to be accessible to any dog.

3. No person shall set any traps, either restraining or killing traps, including foot-hold traps, snares, instant-kill traps, or conibears, that are designed to kill, injure or maim an animal, except for pests and rodents or as otherwise permitted by law.

Section 11. Section § 6.04.090 is added, to read as follows:

6.04.090 - Dog Bites.

Any person who is bitten by a dog, and the owner of a dog that bites a person, shall immediately file a report with the City Manager and the county's ACO.

Commented [MA1]: 610.105 Authority to control noxious rodents or predatory animals. Any person owning, leasing, occupying, possessing or having charge of or dominion over any land, place, building, structure, wharf, pier or dock which is infested with ground squirrels and other noxious rodents or predatory animals, as soon as their presence comes to the knowledge of the person, may, or the agent of the person may, proceed immediately and continue in good faith to control them by poisoning, trapping or other appropriate and effective means. [Amended by 1971 c.658 § days30]

Section 12. Section § 6.04.100 is added, to read as follows:

6.04.100 – Refer for impoundment - County process.

A. All dogs taken up and impounded under this chapter may be held and disposed of as provided in ORS 609.090 or LCC Chapter 2.

B. Any dog which is running at large, a public nuisance, diseased or in an environment hazardous to its health, dangerous, improperly housed or restrained,

in violation of quarantine restrictions, not permitted in the city limits, sick or injured, is unlicensed, or is or may be in violation of this ordinance or other law, may be the subject of enforcement by the officer under this chapter, or referred to the county's ACO to be impounded or quarantined under county law.

C. The officer may "refer" a dog to the county's ACO to be impounded or quarantined under chapter 2 of the Lincoln County Code (LCC), which "triggers" the LCC, or takes priority over the city's ability to impound or quarantine, and the ACO shall then enforce the LCC that incorporates applicable ORS Chapter 609 provisions, rather than this chapter. The ACO's decision, not reviewable by the City Council, shall control, and may include the decision to impound, quarantine, which does not necessarily by itself constitute a decision to impound the dog, or not to take any action, based on the ACO's investigation.

Commented [MA2]:

Commented [MA3]:

D. The ability to refer a case to the county's ACO does not limit the officer's ability to investigate any complaint arising under this chapter, as the officer is specifically authorized to decide whether or not to refer, at any point in the enforcement process, a case to the county's ACO for impoundment and hearing pursuant to this section; and also does not limit the officer's issuance of a citation for violations of the other provisions of this ordinance, including for the failure to report a dog bite under 6.04.090, and for violations of TMC 6.04.050, 6.04.060, 6.04.080, and 6.04.130. The city is authorized to conduct appeals under TMC 6.04.150, and to impose penalties for violations of civil infractions under TMC 6.04.070.

E. Any costs associated with the impoundment of an animal are the owner's responsibility. Any unusual or extraordinary expenses incurred in the enforcement of this ordinance are the responsibility of the animal owner or other responsible party.

F. If the dog exhibits symptoms of rabies, the owner or person in possession of the dog shall handle or dispose of the dog pursuant to ORS 433.345.

G. Any officer (including any ACO providing advice to an officer) shall have the right of entry upon private land in the course of the officer's duties in enforcing the provisions of this ordinance, but such officer shall not enter into any building or dwelling without legal authorization or permission of the owner or occupant of the premises, except as required to protect life and property.

Section 13. Section § 6.04.110 is added, to read as follows:

6.04.110 - Determination of Status - Potentially Dangerous Dogs; Dangerous Dogs

A. The city's officer may refer a dog under 6.04.100 to the county's ACO as being potentially dangerous or dangerous if the officer has probable cause to believe that the dog falls within the definition of a "dangerous dog" or "potentially dangerous dog". The officer's evidence for a referral may include the definitions of "dangerous dog" and "potentially dangerous dog," personal observations of the dog, and the observations of other witnesses who personally observed the dog's behavior and other relevant circumstances.

B. The county is authorized through its process for a dog killing, wounding, injuring, or chasing a person or livestock to apply county law to determine whether a dog is dangerous or potentially dangerous, which should include a hearing by a "Dog Judge," issuance of written findings of fact and disposition, which may include an order for the destruction of the dog, probation for 5 years pursuant to LCC 2.720 (9)(B), the revocation of probation, or removal of the case to Circuit Court. Within 15 days of such hearing, the owner is required to provide to the City Manager a copy of the findings of fact and disposition order.

Section 14. Section § 6.04.120 is added, to read as follows:

6.04.120 – Additional Restrictions for Dangerous Dogs.

A. This section authorizes the officer to impose additional restrictions and conditions, by requiring a current, valid permit, on the keeping of a "dangerous dog" in the city limits, which is meant to supplement not supplant the restrictions and conditions imposed by the county under LCC 2.605-2.730 or ORS Chapter 609, after a determination has been made to put a dog on "probation" under LCC 2.720 or a dangerous dog is otherwise permitted to live in the city. For the purposes of this section, a "dangerous dog" is meant to include a "potentially dangerous dog," and also a dog given "parole" under Lincoln County Code (LCC) 2.720.

B. All owners of a dangerous dog, as defined in subsection A of this section, after a hearing under LCC 2.720, shall immediately provide the City Manager a copy of the findings of fact and disposition.

C. Dangerous dog permit required. In addition to a dog license through the county, the owner of a dog described in subsection A of this section shall pay \$100 to obtain a dangerous dog permit and renew such permit each year.

D. Issuance. The City Manager shall issue a dangerous dog permit, for those dogs put on "probation" or otherwise permitted to live in the city, upon application on a form prescribed by the City, payment of the license fee, and upon finding that:

1. The dog has been issued a certificate of vaccination for rabies, valid for the entire period in which the license is sought;
2. The dog has been spayed or neutered and the owner has provided proof of sterilization;

3. The owner of the dangerous dog has procured liability insurance or a surety bond in the amount of not less than \$100,000 covering any damage or injury that may be caused by such dangerous dog. The policy shall contain a provision requiring that the City be notified immediately by the agent issuing it if the insurance policy is canceled, terminated or expired. The dog owner shall sign a statement attesting that he or she shall maintain and not voluntarily cancel the liability insurance during the lifetime of the dangerous dog;

4. The dangerous dog is at all times kept or maintained in a safe manner and is at all times confined securely under the provisions of this section so that keeping the dangerous dog will not constitute a danger to human life or property;

5. Adequate safeguards are made to prevent unauthorized access to the dangerous dog by a member of the public; and

6. The quarters in which the dangerous dog is kept or confined are adequately lighted and ventilated and are so constructed that the dog can be kept in a clean and sanitary condition and the well-being of the dangerous dog is not in any way endangered by the manner of keeping or confinement.

E. Inspection. Prior to the initial issuance and renewal of a dangerous dog permit, the officer shall inspect the premises subject to the license to determine if the owner of the dog complies with all of the conditions specified under this section. In addition, the officer shall have the authority to inspect the premises upon the receipt of any complaint regarding the maintenance of such premises or the dog therein. If the officer determines during the inspection, that any of the conditions specified under this section are being violated, the officer shall not issue a dangerous dog permit unless the violation is corrected within a period of time the officer shall direct not to exceed 30 days.

F. In no event shall a dangerous dog permit be issued or renewed for the keeping of more than two (2) dangerous dogs at any single location.

G. Once a dog has been declared dangerous, it shall be kept in a secure enclosure subject to the following requirements:

1. Except when properly leashed and muzzled as provided in this section, a dangerous dog shall be securely confined inside a residence or confined in a locked pen or other secure enclosure that is suitable to prevent the entry of children and is designed to prevent the dog from escaping. The enclosure shall include shelter and protection from the elements and shall provide adequate exercise room, light and ventilation. The enclosure structure shall

be kept in a clean and sanitary condition and shall meet the following requirements:

- a. The structure must have secure sides and a secure top, or all sides must be no taller than six (6) feet high;
- b. The structure must have a bottom permanently attached to the sides or the sides must be buried not less than one foot into the ground; and
- c. The structure must be of such material and closed in such a manner that the dog cannot exit the enclosure on its own.

The dog shall remain within the residence or enclosure except as necessary for the dog to receive veterinary care or exercise.

2. Signs. All owners or keepers of dangerous dogs shall display in a prominent place on their premises a sign easily readable by the public using the words, "Beware of Dog."

3. Leash. The dangerous dog shall not be allowed outside its proper enclosure unless the dog is securely attached to a leash not more than four feet in length and walked by a person who is both over the age of 17 and who has the physical ability to restrain the dog at all times. No owner shall keep or permit a dangerous dog to be kept on a chain, rote or other type of leash outside its enclosure unless a person capable of controlling the dog is in physical control of the leash.

4. Muzzle. The dangerous dog shall not be allowed outside of its proper enclosure unless it is wearing a properly fitted muzzle to prevent it from biting humans or other animals. Such muzzle shall not interfere with the dog's breathing or vision.

H. Notification of Escape. The owner or keeper of a dangerous dog shall notify the City immediately if such dog escapes from its enclosure or restraint and is at large. Such notification shall also be required if the dog bites or attacks a person or another animal.

I. Failure to Comply. It shall be a separate offense to fail to comply with the restrictions in this section. Any dog found to be in violation of this section shall be subject to immediate seizure and impoundment. In addition to any other penalty for failure to comply with the restrictions and conditions set forth in this Ordinance shall result in the revocation of the dangerous dog's license and permit providing for the keeping of such dog.

J. After the term of “probation” imposed under LCC 2.720 has expired, or three years if not on probation, the owner of a dangerous dog, as that term is defined in this section, allowed to live in the city under the additional conditions and restrictions imposed by this section, may apply to the City Council, at its next regularly scheduled meeting, to waive the requirement of the dangerous dog permit upon meeting the following conditions:

1. The owner and offending dog have had no subsequent violations of this chapter of the code, have complied with the written findings of fact and disposition issued by the Dog Judge, and have not had the dog’s probation revoked under chapter 2 of the LCC during the probation period; and

2. The owner of the dog has complied with all provisions of this chapter, chapter 2 of LCC, and state law, for the term of the permit; and

3. The owner of the dog provides proof to the City Manager of successful completion of a behavior modification program administered by a Certified Pet Dog Trainer (CPDT), Certified Dog Behavior Consultant (CDBC), or Veterinary Behaviorist, certified through the American College of Veterinary Behaviorists (ACVB) or equivalent training.

K. Appeal. An appeal of a decision of the officer pursuant to this section must follow the appeals procedure set out in section 6.04.150 of this ordinance.

Section 15. Section § 6.04.130 is added, to read as follows:

6.04.130 – Public Nuisance.

A. An animal shall be a public nuisance under the meaning of this chapter in the following instances:

1. The dog or group of dogs make loud or frequent noises that disrupt the comfort or repose of persons in accordance with a reasonable person standard.

2. The dog which through the negligence of the owner fails to maintain the animal premises in a sanitary manner to a degree that offensive odors can be detected from an adjoining street, yard, or residential unit.

3. The dog habitually escapes confinement and trespasses on private property other than its owner’s or on public right-of-way.

4. The dog is found running at large.

5. The dog chases persons or vehicles on premises other than premises from which the owner of the dog may lawfully exclude others.

6. The dog damages or destroys property of persons other than the owner of the dog.

7. The dog scatters garbage on premises other than premises from which the owner of the dog may lawfully exclude others.

8. The dog bites and breaks the skin of any person or animal while unprovoked.

B. It shall be unlawful for any person being the owner of any dog to permit the animal to be a public nuisance as defined in this chapter.

C. The City Council may direct the removal of any dog or group of dogs from the City which are deemed to be a public nuisance.

D. An appeal of a decision pursuant to this section must follow the appeals procedure set out in section 6.04.150 of this ordinance.

Section 16. Section § 6.04.140 is added, to read as follows:

6.04.140 - Nuisances – Additional remedies.

A. The city may, as an alternative to other remedies, institute injunctive or other appropriate proceedings to prevent, enjoin temporarily or permanently, or remove a nuisance that is in violation of this chapter.

B. The abatement of a nuisance is not a penalty for violation of this chapter, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within 10 days of the date of notice to abate or, if written protest has been filed, then abatement within 10 days of council determination that a nuisance exists will relieve the person responsible from the imposition of any forfeiture or fine under TMC 6.04.070.

Section 17. Section § 6.04.150 is added, to read as follows:

6.04.150 – Appeals.

A. Any person aggrieved by a decision of the officer, under this ordinance, may seek review of the decision by filing a written appeal with the City Council not more than 15 business days after receiving notice of the decision. The written appeal shall state:

1. The name and address of the appellant;

2. The reason given by the City for its decision; and

3. The reason the determination is incorrect.

B. The City Council shall hold a meeting within 30 days of a timely and complete written appeal to hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the Council deems appropriate. If the Council decides to take oral argument or evidence at the hearing, the appellant may present testimony and oral argument personally or by counsel. The rules of evidence as used by courts of law do not apply. The appellant shall have the burden of proving the error in the officer's determination. The City Council shall issue a written decision within 20 business days of the hearing date; provided, however, the City Council shall not review the actions or decisions of the county after a dog case has been referred to the Lincoln County, except in deciding whether or not to impose additional conditions and restrictions under TMC 6.04.120.

C. The City Council may include requirements that the dog's owner pay restitution to the victim, that the dog undergo training, or any other requirement that the Council deems reasonable under the circumstances.

D. The city's actions or decisions are appealable to the Toledo Municipal Court, or other court of competent jurisdiction under a Writ of Review or Writ of Mandamus process.

E. The county's actions or decisions are only appealable pursuant to county or state law.

Section 18. Section § 6.04.160 is added, to read as follows:

6.04.160 – Consent to County regulations.

Except as this chapter requires more stringent limitations and restrictions upon dogs or the ownership or control of dogs, the Council hereby consents to the application and enforcement of all County animal control ordinances currently in effect or adopted hereafter.

Section 19. Section § 6.04.170 is added, to read as follows:

6.04.170 – Severability Clause.

A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section, or part of this ordinance shall not affect the validity of the remaining parts to this ordinance.

Section 20. Section § 6.04.180 is added, to read as follows:

6.04.180 – Savings Clause.

A prosecution that is pending on the effective date of this ordinance and arose from a violation of an ordinance repealed by this ordinance, or a prosecution started within one year after the effective date of this ordinance arising from a violation of an ordinance repealed by this ordinance, shall be tried and determine exactly as if the ordinance had not been repealed.

Section 21. Section § 6.04.190 is added, to read as follows:

6.04.190 – Emergency Clause.

This ordinance being necessary for the immediate preservation of the public welfare, health and safety, an emergency is declared to exist and this ordinance shall take effect upon its passage.

This Ordinance adopted by the Toledo City Council this ___ day of _____, 2022.

APPROVED:

ATTEST:

Mayor Rod Cross

City Recorder Lisa Figueroa

Attachment 2 to RCA - 8.04.040 to be deleted

8.04.040 - Livestock and poultry.

- A. No person shall maintain a pigsty, slaughterhouse or tannery, or permit livestock or poultry owned by the person to run at large within the city.
- B. No person may permit any barn, stable or chicken coop or other similar structure to cause an odor noticeable at the property line of the property.
- C. No person may keep roosters or peafowl.

(Ord. 1294 § 9, 2001; Ord. 820 § 4, 1966)

(Ord. No. 1330, § 1, 10-7-2009; Ord. No. 1347, § 2, 11-21-2012)

ANIMAL CONTROL

2.605 Animal Bites

(1) When an animal susceptible to rabies bites a person, and the animal is suspected of rabies, the bite shall be immediately reported to the law enforcement agency with jurisdiction in the area and to the Lincoln County Public Health Officer.

(2) For the purpose of this chapter, a dog is suspected of rabies if it does not have a current rabies vaccination. [1998 o.380 §1]

2.607 Quarantine

(1) Upon receipt of a report required by LCC 2.605, the law enforcement agency shall promptly investigate the report and, if verified, shall cause the animal to be quarantined in compliance with OAR 333-019-0345(4)(b), and shall promptly notify the Lincoln County Public Health Officer of the time, place, and manner of quarantine. If the owner of the animal refuses to permit quarantine, the law enforcement officer shall immediately notify the Lincoln County Public Health Officer, who shall utilize the procedure provided by ORS 433.355 to force quarantine.

(2) A decision to quarantine a dog pursuant to this section does not by itself constitute a decision to impound pursuant to ORS 609.090(1). If a dog is also impounded pursuant to ORS 609.090(1) for allegedly having bitten a person, the law enforcement officer shall prepare and forward a report as required by LCC 2.720(3). [1998 o.380 §3]

2.610 Quarantine Order

(1) Upon receipt of a report required by LCC 2.605, the Lincoln County Public Health Officer shall investigate the report. If the report is verified, and the animal has not been quarantined as provided in LCC 2.607(1), the health officer shall issue an order of quarantine in the form provided by LCC 2.615 and the law enforcement agency with jurisdiction in the area shall promptly quarantine the animal in compliance with the order and OAR 333-019-0345(4)(b), and promptly notify the Lincoln County Public Health Officer of the time, place, and manner of quarantine. If the owner of the animal refuses to permit quarantine, the law enforcement officer shall immediately notify the Lincoln County Public Health Officer, who shall utilize the procedure provided by ORS 433.355 to force quarantine.

(2) Upon being notified that an animal has been quarantined pursuant to LCC 2.607(1) or 2.610(1), the Lincoln County Public Health Officer shall determine whether the head of the quarantined animal must be submitted to the Oregon Public Health Laboratory as required by OAR 333-019-0345(4)(b)(B). If the Public Health Officer so determines, the Public Health Officer shall immediately take all actions as necessary under LCC 2.620, ORS chapter 433, and OAR 333-019-0345. [1998 o.380 §4]

2.615 Quarantine Form

An Order of Quarantine shall be in the following form:

BEFORE THE PUBLIC HEALTH OFFICER
FOR THE COUNTY OF LINCOLN

In the Matter of)
)
THE QUARANTINE OF AN) ORDER OF QUARANTINE
ANIMAL SUSPECTED OF) No. _____
RABIES)

WHEREAS, it has been reported to the Lincoln County Public Health Office that the following described animal:

_____ has bitten the following victim: _____
address: _____, city of _____, state of _____,
county of: _____, telephone # _____,
on the _____ day of _____, _____; and

WHEREAS, the owner of the animal is: _____
address: _____, city of _____, state of _____,
county of: _____, telephone # _____; and

WHEREAS, pursuant to ORS chapter 433 and LCC 2.605 to 2.620, the above described animal should be quarantined for the purpose of determining whether or not the animal has rabies; therefore,

IT IS HEREBY ORDERED as follows:

1. That the Lincoln County Animal Control Officer impound the above described animal and isolate said animal at _____ for a period of _____ days from the date of this order.

2. That the owner of the above described animal may recover the animal on the _____ day of _____, _____.

DATED this _____ day of _____, _____.

Public Health Officer

The above described animal was released to _____
on the _____ day of _____, _____.

(person releasing animal)

(person receiving animal)

2.620 Order to Destroy Animal

When it is necessary for the public health and safety, the Lincoln County Public Health Officer may order the destruction of an animal suspected of rabies for the examination of body tissue.

2.705 Dog Licenses and Fees

(1) Dogs are required to be licensed in Lincoln County in accordance with this section and the provisions of ORS 609.100. Licenses may be purchased through the Lincoln County Animal Shelter.

(2)(a) Except as provided in paragraph (b) of this subsection, wolf-dog hybrids are subject to all dog and animal control laws, ordinances, and rules that would otherwise apply to dogs.

(b) Animals declared by the owner to be wolf-dog hybrids must be licensed, but are exempt from the requirement for rabies vaccination. In the event that a rabies vaccine becomes licensed for use in wolf-dog hybrids, this exception will no longer apply.

(3) As provided in ORS chapter 609, fees for licenses shall be collected by the animal control officer, animal shelter, and appointed agent of the animal shelter, in amounts set by order of the Board of Commissioners. [1981 o.167 §1; 1993 o.313 §4; 1998 o.380 §5]

2.710 Proof of Sterilization

In order to obtain the reduced license fee for a spayed or neutered dog, proof of sterilization shall be required in the form of a letter or receipt from a licensed veterinarian or publicly operated animal shelter.

2.712 Report of Rabies Vaccinations

(1) A veterinarian, and any person operating under the authority of a veterinarian, who inoculates a dog against rabies in Lincoln County shall report that inoculation to the Lincoln County Health and Human Services Department.

(2) The Department may adopt rules or policies to facilitate the reporting required under subsection (1) of this section, and may share reported information with the Lincoln County Animal Shelter. [2006 o.443 §2]

2.715 Penalties

In addition to any other remedies under law, failure to procure a license in accordance with ORS 609.100 and LCC 2.705 shall be deemed a violation of county laws, enforceable under LCC chapter 10 and punishable upon conviction by a fine of not more than \$100. This fine shall be separate from and in addition to required licensing fees and penalties established by Board order under LCC 2.705. [1990 o.286 §1]

2.720 Procedure and Disposition of Dog Impounded for Killing, Wounding, Injuring, or Chasing a Person or Livestock

(1) For purposes of this section:

(a) "Animal Control Officer" means the Lincoln County Animal Control Officer or any Lincoln County Sheriff's Deputy performing the functions of the Lincoln County Animal Control Officer.

(b) "Dog Judge" means the Lincoln County Legal Counsel, the Assistant Lincoln County Legal Counsel, or their duly appointed designee.

(c) "Livestock" has the meaning provided in ORS 609.125.

(d) "Shelter Manager" means the Lincoln County Animal Shelter Manager, or any Lincoln County Sheriff's Deputy performing the functions of the Lincoln County Animal Shelter Manager.

(2)(a) In accordance with ORS 609.015, the following provisions of ORS 609.030 and 609.040 to 609.110 shall not apply in Lincoln County, and the provisions of this section shall apply in lieu of those sections:

(A) ORS 609.090(3), as applied to dogs that have been impounded for killing, wounding, injuring, or chasing a person, pet, or domestic animal; and

(B) ORS 609.090(7) and (8), as applied to dogs that have been impounded for killing, wounding, injuring, or chasing a person, pet, or domestic animal.

(b) In accordance with ORS 609.135, no provision of ORS 609.155, 609.158, 609.163, 609.166, and 609.167 shall apply in Lincoln County, and the provisions of this section shall apply in lieu of those sections, except for the following sections, which are mandatory in accordance with ORS 609.135: ORS 609.156, 609.158(4), 609.162 and 609.168.

(3) If a dog has been impounded pursuant to ORS 609.090(1) or ORS 609.155(1) for allegedly having killed, wounded, injured, or chased a person, pet, domestic animal, or livestock, the Animal Control Officer or other impounding law enforcement agency shall cause a report of that incident to be promptly filed with the Dog Judge. In addition to all other matters deemed relevant by the Animal Control Officer or other impounding law enforcement agency, the report shall specifically identify the names and mailing addresses of the owner of the dog and all alleged victims and interviewed witnesses.

(4) (a) (A) Except as provided in subparagraph (B) of this paragraph, upon receipt of a report described in subsection (3) of this section relating to allegations that a dog has killed, wounded, injured, or chased a person, pet, or domestic animal, the Dog Judge shall promptly set a hearing on the matter, and shall issue a notice of that hearing to all persons identified in the report as the dog owner, victim, witness, or law enforcement officer. The notice shall state the date, time, and location for the hearing, and shall include a copy of the report. The notice shall be mailed by regular first class mail.

(B) If the Animal Control Officer or other impounding law enforcement agency has issued a citation and summons to Circuit Court in addition to the impoundment, as authorized by ORS 609.090(1), then the Dog Judge shall be divested of all jurisdiction over the matter, and disposition of the impounded dog or dogs shall be left for determination by the Circuit Court in accordance with ORS 609.990.

(b) Upon receipt of a report described in subsection (3) of this section relating to allegations that a dog has killed, wounded, injured, or chased livestock, the Dog Judge shall issue a notice as required by ORS 609.156. The notice shall be mailed by regular first class mail.

(5) A hearing conducted by the Dog Judge pursuant to this section shall be informal and open to the public. No rules of evidence or civil procedure shall apply to the conduct of the hearing. The Dog Judge may establish reasonable parameters for the conduct of the hearing to ensure an orderly and complete presentation of the evidence. Upon request of a party, or upon the Dog Judge's own motion, the Dog Judge may elect to tape record the hearing.

(6) Upon completion of the hearing, the Dog Judge shall promptly issue written findings of fact and disposition order.

(7) If the Dog Judge finds that the allegations have not been proven by a preponderance of the evidence, then the Dog Judge shall enter an order directing release of the dog to the owner of the dog, without payment by the owner of any accumulated impound fees, but with full compliance with all licensing and vaccination requirements of ORS chapter 609 and 433.

(8) (a) If the Dog Judge finds that the allegations have been proven by a preponderance of the evidence, and the incident relates to the killing, wounding, injuring, or chasing of a person, pet, or domestic animal, then the Dog Judge shall determine whether to order that the dog be killed, or placed on probation in accordance with subsection (9) of this section. In making such a determination, the Dog Judge shall consider all relevant factors described in ORS 609.093 and any other factors that the Dog Judge may deem relevant.

(b) If the Dog Judge finds that the allegations have been proven by a preponderance of the evidence, and the incident relates to the killing, wounding, injuring, or chasing of livestock, then the Dog Judge shall issue an order in compliance with ORS 609.158(4), 609.162, and 609.168.

(9) If the Dog Judge releases the dog on probation as described in subsection (8)(a) of this section, the Dog Judge:

(a) Shall impose the following conditions of probation:

(A) That the dog and the person to whom the dog is to be released comply with all dog control laws and conditions of probation;

(B) That the term of probation shall last for a period of five years from the date of release of the dog;

(C) That the dog be immediately licensed and vaccinated in accordance with ORS chapters 609 and 433, if the dog is not already licensed and vaccinated;

(D) That upon probable cause to believe that there has been any violation of the probation, the dog may be immediately impounded by the Animal Control Officer pending a probation revocation hearing as described in subsection (11) of this section; and

(E) That the person to whom the dog is to be released sign an acceptance of all conditions of probation.

(b) May impose one or more of the following conditions of probation:

(A) That accrued impound fees, or a portion of the accrued impound fees, be paid by or on behalf of the person to whom the dog is to be released on probation; and

(B) Any other condition that is reasonably related to ensuring the welfare and safety of the victim, or the public.

(10) A certified true copy of the findings and order shall be forwarded to the Shelter Manager for execution of the order. The Dog Judge shall also forward a copy of the order, by regular first class mail, to each person to whom notice of the hearing was sent and who was also present at the hearing, and to any other person present at the hearing who specifically requests a copy of the order.

(11)(a) If a dog has been impounded pursuant to subsection (9)(a)(d) of this section, or pursuant to an order issued under subsection (8)(b) of this section, for allegedly having violated a condition of probation, the Animal Control Officer or other investigating law enforcement agency shall forward a report of that incident to the Dog Judge, who shall set a hearing on that matter, issue notice of the hearing, and conduct a hearing in the manner described in subsections (4) and (5) of this section.

(b) If the Dog Judge finds that the probation violation allegation has not been proven by a preponderance of the evidence, the Dog Judge shall order the probation to be continued and the dog to be released to the owner of the dog, without payment by the owner of any accumulated impound fees, but with full compliance with all licensing and vaccination requirements of ORS chapter 609 and 433.

(c) If the Dog Judge finds that the probation violation allegation has been proven by a preponderance of the evidence, the Dog Judge shall determine whether to order that the dog be killed, or continued on probation subject to all previous conditions of probation, and any additional conditions of probation imposed by the Dog Judge. In making such a determination, the Dog Judge shall consider all relevant factors described in ORS 609.093 and any other factors that the Dog Judge may deem relevant. [1996 o.360 §2; 1998 o.380 §6; 1999 o.391 §1; 2000 o.399 §1]

2.730 Keeping Exotic Animal Prohibited; Exception

(1) In accordance with the authority granted in ORS 609.205, the keeping of an exotic animal is prohibited in Lincoln County.

(2) The prohibition provided in subsection (1) of this section does not apply to the keeping of an exotic animal pursuant to a permit under ORS 609.335 that was first issued prior to December 27, 2006.

(3) As used in this section, “exotic animal” has the meaning provided in ORS 609.305. [2006 o.444 §2]