

CHAPTER 612
Animal Control

- 612.01 Definitions.
- 612.02 Dog Control District and County Animal Control Officers.
- 612.03 Dog Licenses Required.
- 612.04 Issuance of Dog Licenses.
- 612.05 Fees.
- 612.06 Animal Control Advisory Committee.
- 612.07 Shelter Operation and Impoundment.
- 612.08 Regulation of Wolf/Dog Hybrids.
- 612.09 Keeper Regulation.
- 612.10 Proof of County Violations and Defenses.
- 612.11 Notice of County Violations.
- 612.12 County Violation and Impoundment.
- 612.13 Admission of County Violation; Conditions.
- 612.14 Hearing Notice and Request for Hearing.
- 612.15 Hearings Procedure.
- 612.16 Standards and Factors for Sentencing.
- 612.17 Killing or Physically Injuring or Chasing Livestock.
- 612.18 Other Restrictions; Authority to Impose.
- 612.19 Judicial Review.
- 612.20 Area Affected.
- 612.21 Concurrent Jurisdiction.
- 612.22 Relationship to Certain State Statutes.
- 612.23 Severability.
- 612.99 Penalties, Fines and Alternative Sentences

CROSS REFERENCES

- Judicial review (writ of review) - see ORS 34.010 to 34.102
- Companion animals - see ORS 164.055
- Minimum care of animals - see ORS 167.310
- Rabid animals - see ORS 433.340 to 433.390
- Killing or injuring by railroads - see ORS 608.350 et seq.
- Dog control districts - see ORS 609.030
- Dog licensing - see ORS 609.100, 609.990
- Bounties for killing predatory animals - see ORS 610.005 et seq.
- Animal Control Officers - see ADM. 203.01(d)

Animal Control Division - see ADM. 231.01

Kennels - see B.R. & T. Ch. 844

Animals at Airport - see S.U. & P.S. 1062.49

Animals in parks - see S.U. & P.S. 1064.06, 1064.07

Animals in County Fairgrounds and Exposition Park - see S.U. & P.S. 1066.10, 1066.11

612.01 DEFINITIONS.

As used in this chapter, unless the context requires otherwise:

(a) For purposes of General Definitions:

(1) “Aggressive” describes behavior of a dog which has an avenue of escape yet crosses neutral territory to chase, attack or bite.

(2) “Aggressively bites” means to bite so as to break the skin and is accompanied by an attack where the dog exhibits behavior including, but not limited to any of the following: snarling, baring teeth, chasing, growling, snapping, pouncing, lunging, multiple attacks, multiple lunges or multiple bites.

(3) “Animal” means any non-human vertebrate with the exclusion of livestock as defined herein.

(4) “Animal control officer” means a Jackson County Animal Control Officer or deputy or any Jackson County Sheriff’s Deputy or Code Enforcement Officer performing the functions of a Jackson County Animal Control Officer.

(5) “Board of Commissioners” means the Jackson County Board of Commissioners or its designee.

(6) “Dangerous dog” or “dangerous animal” means any dog or animal that has been found to have engaged in any of the following behaviors:

A. Menacing, chasing, displaying threatening or aggressive behavior or otherwise threatening or endangering the safety of any person or companion animal as defined under ORS 164.055.

B. Aggressively biting, causing physical injury to or killing any person or companion animal as defined under ORS 164.055.

- C. Chasing, wounding, injuring, killing livestock or damaging or destroying property of persons other than that of the keeper.
- D. Having been used as a weapon in the commission of a crime.
- E. Leaving the confines of any officially prescribed quarantine area.

(7) "Director" means the department director or other designee determined by the County Administrator to be responsible for the animal control program.

(8) "Dog" means any member of the canine family, including a wolf or wolf hybrid, which is domesticated, or which is kept or maintained in captivity by a keeper.

(9) "Dog at large" or "animal at large" means a dog or animal that is off or outside of the premises occupied by the keeper of the dog or animal, or is not in the company of and under the control of the keeper. "Dog at large" does not include:

- A. A dog used to legally hunt, chase or tree wildlife while under the supervision of the keeper;
- B. The use of a dog:
 - 1. To control or protect livestock;
 - 2. For other activities related to agriculture; or
- C. A dog that is within any part of a vehicle.

(10) "Euthanized" means put to death in a humane manner by a licensed veterinarian or certified euthanasia technician.

(11) "Hearings officer" means the person with the authority to hear County Violation cases and impose penalties for County violations as defined and interpreted under state law, including any hearings on claims for livestock injured or killed by dogs in the County, and who can make determinations regarding payment pursuant to State law. In addition to its ordinary meaning, "Hearings Officer" includes "Circuit Court" and "Justice Court" where necessary to effectuate this chapter.

(E.Ord 2003-29. Passed 10-15-03; P. Ord 2003-28. Passed 10-29-03.)

(12) "Keeper" means a person who owns, possesses, controls, maintains or otherwise has charge of a dog or other animal.

- (13) “Kennel” means an enclosure of sound structural strength in good repair capable of containing the dog enclosed and preventing the entrance of other keepers or people by means of a padlock or key lock mechanism. The structure shall be of the type as to protect the dog from the elements and provide for the humane confinement of the dog.
- (14) “Livestock” means ratites, psittacines, horses, mules, jackasses, cattle, llamas, sheep, goats, swine, and also means domesticated fowl and any fur-bearing animal bred and maintained commercially or otherwise within pens, cages and hutches.
- (15) “Menace” means to place a reasonable person in fear of imminent physical injury.
- (16) “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 keeper, includes, but is not limited to, the requirements set forth under ORS 167.310 (8)(a)-(e)(1999).
- (17) “Muzzle” means a device constructed of strong soft material or a metal muzzle that will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.
- (18) “Owner” see “Keeper.”
- (19) “Permit” means to engage in conduct that is intentional, deliberate, careless, inadvertent or negligent in relationship to an animal.
- (20) “Person” means any natural person, association, partnership, firm or corporation.
- (21) “Physical control device” means a collar or harness connected to a leash or tether made of chain links or other comparable material so as to prevent the escape of a dog by any manner.
- (22) “Physical injury,” whether or not caused by actual physical contact with a dog or animal or a dog or animal bite, includes but is not limited to, any abrasion, puncture or laceration of skin or hide, fracture of bones, impairment of normal gait, or aborting of fetus while pertaining to any type of injury, physical pain or indications of physical impairment.
- (23) “Secure enclosure” means a fenced pen, kennel, or structure which remains securely locked, and which has secure sides which are a minimum of 5 feet high. The enclosure shall be designed in a manner which prevents the dog from menacing any public way, sidewalk, or adjoining property, and must be located so as not to interfere with the public’s legal

access to the keeper's property. The structure must be in compliance with the jurisdiction's building codes and protect the dog from the elements and provide for the humane confinement of the dog.

(24) "Serious physical injury" means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery or any other medical condition determined by the Director, in consultation with the County Health Officer or his or her designee, to be of equal or greater severity, whether or not caused by actual physical contact with a dog or a dog bite.

(25) "Sexually non-reproductive" means being incapable of reproduction and certified as such by a licensed veterinarian.

(26) For the purposes of sections pertaining to Livestock:

A. "Chasing" means causing livestock to move from a place or remain in a place involuntarily.

(Ord. 2001-2. Passed 5-23-01.)

612.02 DOG CONTROL DISTRICT AND COUNTY ANIMAL CONTROL OFFICERS.

(a) It is hereby declared that Jackson County is a dog control district pursuant to ORS 609.030 (1999). The Board of Commissioners elects to act as the Board of Supervisors of the Dog Control District.

(b) County animal control officers are code enforcement officers as described in JCC 203.01(b), with all the same powers and duties therein. In addition, County animal control officers shall have any additional powers and duties authorized by state law to enforce laws related to animal control and to enforce such related regulations as are imposed by County ordinance.

(c) If there are exigent circumstances and probable cause to believe that any animal is being impounded or confined without minimum care for more than 24 consecutive hours, without medical cause, an animal control officer may enter the premises where the animal is being held and provide the animal with water, food or emergency on-site first aid treatment.

(1) "Premises," as that term is used in (c) above, means the curtilage of private property, including, but not limited to, the front or back yard of residential property, a barn where the animal is located, corrals and pastures. Premises does not include buildings, other than a barn where animals are located, private residences, garages or locked outbuildings.

(2) “Exigent circumstances,” as that term is used in (c) above, means a demand for immediate action or performance arising from a circumstance or condition.

(3) “Probable cause,” at that term is used in (c) above, is as defined in ORS 131.005.

(d) County animal control officers shall be issued identification in the same manner as provided in JCC 203.01(b). County animal control officers shall carry such identification and display it upon request or as appropriate in the performance of duties.

(Ord. 2001-2. Passed 5-23-01; E. Ord. 2001-20. Passed 10-31-01; E. Ord. 2002-01. Passed 1-9-02; P. Ord. 2002-2. Passed 1-23-02.)

612.03 DOG LICENSES REQUIRED.

(a) A keeper must have his/her dog licensed pursuant to the terms set forth in this chapter. The license must be obtained within 30 days of the dog obtaining the age of six months or within 30 days of acquisition by the keeper, whichever occurs later. An individual dog license is not required for any dog kept in a kennel described in JCC 844.01(a)(4) which has a permit under JCC Chapter 844.

(b) Violation of this section shall be subject to penalties provided under JCC 202.99 but under no circumstances will the fine be less than the penalty fee established from time to time by the Board of Commissioners.

(Ord. 2001-2. Passed 5-23-01.)

612.04 ISSUANCE OF DOG LICENSES.

(a) All dog licenses issued pursuant to the terms of this chapter shall be valid for a period of one, two or three years from the date of issuance, at the option of the keeper. A partial year license may be purchased at a per month rate established by the Board of Commissioners. A current rabies inoculation shall be required for the entire licensing period selected.

(b) Dog license tags shall be securely displayed upon the dog licensed at all times, except when the dog is confined to the keeper’s premises or displayed in an exhibition.

(c) A dog license is not transferable to another dog. The dog license number shall be assigned to the dog and shall remain with the dog upon transfer to another keeper for the duration of the license period.

(d) A dog displaying a current license from jurisdictions outside Jackson County, but within the State of Oregon, shall not require licensing under this section until the current license expires. However, the keeper of a dog who has moved into Jackson County must register the dog with the County within 30 days of moving to Jackson County.

(e) The keeper of a dog who has moved to Jackson County from another state shall have 30 days to meet licensing requirements. A license from another state shall not be transferable to Jackson County.

(f) Dog licenses may be sold in outpost locations by non-County personnel when authorized by a properly executed contract with the County to do so.

(Ord. 2001-2. Passed 5-23-01.)

612.05 FEES.

(a) Dog license fees, penalty fees, impoundment and redemption fees, adoption fees, euthanasia fees and dead animal pick-up and drop-off fees and other related fees shall be as established from time to time by the Board of Commissioners. No license fee shall be required to be paid for guide dogs as provided for under ORS 609.105.

(b) The County Administrator or his/her designee may make refunds of official fees paid to the Animal Control Program upon the personally signed request of the head of such Program, which request shall contain the following information:

- (1) The name, address and telephone number of the person who is due the refund;
- (2) A description of the fee for which a refund is due and its receipt number;
- (3) A statement that the individual was improperly charged or the dog for which the fee was paid died within 30 days of the date the license was due and purchased, or that an approved refund of adoption fees is due; and
- (4) Certification that the refund is presently due.

(c) A license is not valid if fraudulently obtained or payment for the license is not complete or invalidated in any manner by any party or financial institution.

- (1) Violation of this section is a County Violation and any penalty thereunder is in addition to any additional fees provided in these Codified Ordinances.

(Ord. 2001-2. Passed 5-23-01.)

612.06 ANIMAL CONTROL ADVISORY COMMITTEE.

- (a) There is hereby established in and for the County an Animal Control Advisory Committee.
- (b) The Animal Control Advisory Committee shall consist of seven members who shall each serve for a term of three years. The Advisory Committee shall consist of:
- (1) One member who is a sheep grower;
 - (2) One member nominated by the County Stockman's Association;
 - (3) One member representing a local animal welfare organization to include but is not limited to, Committed Alliance to Strays, Friends of the Animal Shelter, Southern Oregon Humane Society and S.N.Y.P. (Spay and Neuter Your Pet);
 - (4) One member who has professional fish and wildlife management experience and background;
 - (5) Two members qualified, in the judgment of the Board of County Commissioners, to represent the interests of the general public;
 - (6) One member who is a veterinarian or other animal health care specialist.
- (c) The members of the Advisory Committee shall serve without compensation; however, all expenses necessarily incurred by the members of the Advisory Committee shall be paid from the Animal Control Fund, subject to County review and budgetary limitations.
- (d) The functions and responsibilities of the Animal Control Advisory Committee shall be to:
- (1) Recommend to the Board of Commissioners, in a timely manner, policies concerning dogs, cats, euthanasia, livestock, including strays, animal handling methods and control of predators;
 - (2) Conduct studies into the need for control of predators and make recommendations to the Board of Commissioners; and
 - (3) Perform such other duties as the Board of Commissioners may assign to it.

(Ord. 2001-2. Passed 5-23-01; Ord. 2007-24. Passed 9-12-07.)

612.07 SHELTER OPERATION AND IMPOUNDMENT.

(a) Jackson County may operate, maintain or provide for a facility to receive, care for and confine animals delivered to its custody under the provisions of this Chapter, which facility shall be accessible to the public during reasonable hours for the conduct of necessary business concerning impounded animals. The Director shall have the authority to turn away any animal for which the County does not have adequate facilities to receive, care for or safely confine said animal.

(b) Any animal may be impounded and held at the facility when it is the subject of an alleged violation of law, a violation of the law, when an animal requires protective custody and care because of mistreatment or neglect by its keeper or when otherwise ordered impounded by a hearings officer, the Director, or a court. The cost of impounding and keeping the animal shall be the responsibility of the keeper of the animal.

(c) Impoundment is subject to the following holding period and notice requirements:

(1) A dog bearing a license or identification tag shall be held for 120 hours from the time of impoundment. A reasonable effort shall be made to notify the keeper of an animal before it is removed from impoundment.

(2) A dog for which no identification of ownership is known or reasonably determinable shall be held for 72 hours from the time of impoundment before any disposition may be made of the animal. The disposition of cats at large bearing no identification may be made at any time after impoundment.

(3) An animal held for periods prescribed under this section, or as otherwise required by ORS 433.340 through 433.390 (1999), and not redeemed by the keeper, shall be euthanized unless the animal may be released under another provision of this section.

(4) An animal delivered for impoundment by a peace officer, who removed the dog from possession of a person in the custody of the peace officer, shall be held for the period prescribed by Oregon law to effect notice of County Violation, possible penalties, and rights to a hearing. A receipt shall be given the peace officer, who shall deliver the receipt to the person in custody from whom the animal was taken. The receipt shall recite redemption requirements and shall serve as the notice required by this section. If the facility is closed when the peace officer delivers the dog, a receipt shall be prepared on the next business day and delivered to the person in custody from whom the dog was taken.

(d) If the County is not otherwise authorized to retain custody of an animal, any impounded animal shall be released to the keeper or keeper's authorized representative upon confirmed payment of the costs of impoundment and care, redemption fees, rabies vaccination deposits, license fees, past due fines, and all fees and deposits related to chasing livestock.

(e) An animal held for the prescribed period and abandoned or otherwise not redeemed by the keeper, and which, in the opinion of the Director, is neither dangerous nor in a dangerous condition of health and can be safely kept, may be released for adoption under the following conditions:

(1) The adoptive keeper shall agree in writing to properly care for the animal, not violate the County ordinances related to dogs or other animals, and that the animal is being adopted as a companion and will not be sold or given away for any other purpose;

(2) Payment of all fees will be set from time to time by the Board of Commissioners;

(3) In the case of a fertile dog or cat, a voucher will be provided to the keeper. The voucher will constitute partial pre-payment for veterinarian services to sterilize the dog or cat. The dollar amount for the voucher will be determined by policy and set by the Board of Commissioners;

(4) The adoptive keeper shall agree in writing to render any adopted dog or cat sexually non-reproductive within 30 days of adoption or upon the animal attaining six months of age, whichever occurs last. The keeper shall tender the voucher as partial payment to a veterinarian to render the dog or cat sexually non-reproductive. Failure to perform the agreement shall result in the voucher being voided and the County may require the return of the adopted dog or cat to the shelter. It is unlawful to fail to return an adopted animal as required by the County.

(f) The County may decline to release an animal for adoption under any of the following circumstances:

(1) The prospective adoptive keeper has a history of County Violation of this Chapter or has been convicted of an animal related crime;

(2) The prospective adoptive keeper has inadequate or inappropriate facilities for confining the animal or for providing proper care to the animal;

(3) The existence of other conditions which in the opinion of the Director would endanger the welfare of the animal or the health, safety and welfare of the people residing in Jackson County.

(g) Any failure or refusal to pay fees, penalties, or costs as provided for in this Chapter after 10 days from the date notice is posted at the Animal Shelter, is deemed abandonment of the impounded animal and the Animal Shelter shall retain the right to dispose of the animal as considered by the Director to be in the best interest of Jackson County.

612.08 REGULATION OF WOLF/DOG HYBRIDS.

(a) Animals declared by the owner or keeper to be wolf/dog hybrids must be licensed under this Chapter but will be exempt from the requirement for rabies vaccination. In the event that a rabies vaccine becomes licensed for use in wolf/dog hybrids, this exemption will be withdrawn. Except as otherwise provided in this Chapter, all other regulations contained within this Chapter apply to wolf/dog hybrids in the same manner as they apply to all other dogs.

(b) Any wolf/dog hybrid found to have bitten or physically injured a person is subject to standard testing as otherwise provided by State law for wild or exotic animals.

(c) Upon declaration or upon reasonable belief by the Director that an animal is a wolf or wolf/dog hybrid, the keeper shall be subject to the restrictions set forth in this chapter.

(1) The keeper may seek a hearing before the hearings officer to object to the subject animal's designation as a wolf or wolf/dog hybrid, and is subject to hearing rules and procedures as set forth under this Chapter.

(d) Wolf/dog hybrids shall be confined within an enclosure or kennel, which meets the requirements of subsection (e) herein, at all times when not on a strong, secure leash. The secure enclosure or kennel must be located so as to not interfere with the public's legal access to the keeper's property. No wolf/dog hybrid may be chained or tethered as a method of confinement.

(e) All secure enclosures or kennels which will be used to confine a wolf/dog hybrid must be inspected by the Director or his or her designee prior to housing a wolf/dog hybrid. The Director shall issue a written permit allowing occupancy of the secure enclosure or kennel by a wolf/dog hybrid, if said secure enclosure or kennel meets the requirements of subsection (e) herein. The Board of County Commissioners shall establish an appropriate fee for said inspection and permit.

(f) Any enclosure or kennel used to confine a wolf/dog hybrid must meet the following requirements:

(1) All outdoor and indoor facilities shall be constructed and maintained so as to provide sufficient space for each animal to make normal postural and social adjustments with freedom of movement; to keep the animals clean, dry and safe from injury; and to provide the animals ready access to clean water and wholesome food.

(2) All pens must have a floor constructed of concrete or shall have a heavy buried wire barrier sufficient to prevent the animals from digging out. All pens shall be of sufficient height or be covered with sufficient materials to prevent the animal from surmounting it.

(3) Outdoor facilities shall have an additional exterior fence surrounding the pen providing a minimum of a three foot barrier between the fence and pen. It shall be constructed of sufficient materials and height to prevent entry from the public.

(g) When outside of a secure enclosure or kennel, all wolf/dog hybrids must be harnessed and on a lead constructed of such material as to prevent its escape, and must be under the direct control of a capable person.

(Ord. 2001-2. Passed 5-23-01.)

612.09 KEEPER REGULATION.

(a) For the purposes of this section, the owner is ultimately responsible for the behavior of his or her dog regardless of whoever failed to prevent the dog to engage in the behavior that is the subject of the County Violation. If the keeper of a dog classified as Dangerous is a minor, the parent or guardian of that minor shall be responsible for compliance with the specifications of this Chapter for the care and housing of the dog.

(b) It is unlawful for a keeper to fail to prevent his/her dog from being a Dangerous Dog as defined by JCC 612.01(a)(6).

(1) Except as otherwise provided in this Chapter or as required under Oregon law, any dog that is found to be a "Dangerous Dog" can be euthanized, unless a hearing is requested pursuant to JCC 612.14 and the appropriate findings are made by the hearings officer pursuant to JCC 612.16 to 612.17. If the dog is not euthanized, the hearings officer may impose fines and other reasonable restrictions on the keeping of the dog.

(c) It is unlawful for a keeper to fail to prevent a dog from being a public nuisance. For purposes of this Chapter a "a public nuisance" means:

(1) A Dog at Large;

(2) A dog unreasonably causing annoyance, alarm or noise disturbance at any time of the day or night, by frequent or prolonged noises which may be heard beyond the boundary of the keeper's property;

(3) A dog trespassing on property of another;

(4) A dog leaving its feces on a public place or on property of another;

(d) It is unlawful for a keeper to:

- (1) Leave an animal unattended for more than 24 consecutive hours without minimum care;
- (2) Physically mistreat any animal either by abuse or neglect or failure to furnish minimum care;
- (3) Permit an animal to be confined within or on a motor vehicle at any location under such conditions as may endanger the health or well-being of the animal, including but not limited to dangerous temperature, lack of food or water.

A. Any animal control officer or other law enforcement officer is authorized to remove any animal from a motor vehicle at any public location when the officer reasonably believes it is confined or carried in violation of this section. Any animal so removed shall be delivered to the animal control shelter after the removing officer leaves a written notice of the removal and delivery, including the officer's name, in a conspicuous, secure location on or within the vehicle.

B. No animal control officer or other law enforcement officer shall be held criminally liable for entering a vehicle to seize an animal, provided the officer acts lawfully and in good faith.

(e) It is unlawful for any person to:

- (1) Fail to comply with any requirement of this Chapter which applies to the keeping of an animal or a Dangerous Dog;
- (2) Harbor a Dangerous Dog without permission from either the Director, the hearings officer or the Court;
- (3) Fail to produce an animal for quarantine or inspection by an animal control officer;
- (4) To remove or attempt to remove an animal from impoundment without the proper authority to do so from either the Director, hearings officer, or the court.

(f) It is unlawful for any person to knowingly place food of any description containing poisonous or other injurious ingredients in any area reasonably likely to be accessible to animals, except as provided by law for nuisance, vector or predator control.

(Ord. 2001-2. Passed 5-23-01.)

612.10 PROOF OF COUNTY VIOLATIONS AND DEFENSES.

(a) All County Violations under Chapter 612 shall be established by preponderance of the evidence.

(b) A disputable presumption shall arise that a dog has been engaged in killing, injuring or chasing livestock as set forth under ORS 609.161 (1999).

(c) A dog that is not at large that bites or causes physical injury to a person may not be considered a "Dangerous Dog" if the injured person, at the point of injury, was:

(1) Wrongfully assaulting the dog or the dog's keeper; or

(2) Trespassing upon premises occupied by the dog's keeper after the dog is provoked by that person; or

(3) Negligently placing himself or herself in a circumstances that would reasonably cause a dog to bite.

(d) A dog that is not at large that bites or injures or kills another animal may not be considered a "Dangerous Dog" if, at the time of the incident:

(1) The dog was clearly provoked by the other animal; or

(2) The other animal was a dog or animal at large; or

(3) The other animal was trespassing upon premises occupied by the dog's keeper.

(e) A dog is not considered a "Dangerous Dog" if it is used for law enforcement purposes and is on duty, under the control of a law enforcement officer and acting pursuant to the instructions of the officer at the time it exhibits the behavior at issue.

(Ord. 2001-2. Passed 5-23-01.)

612.11 NOTICE OF COUNTY VIOLATIONS.

(a) Whenever a County animal control officer has reasonable grounds to believe that an animal or the keeper is in violation of this Chapter, the officer shall be authorized to issue the keeper notice of County Violation, seize the animal, or both.

(b) The notice of County Violation shall be served on the keeper of the animal in violation of this Chapter by personal service or by regular and certified mail.

- (c) The notice shall contain the following information:
- (1) The name and address, if known, of the person in violation of this Chapter and a description of the animal, if applicable;
 - (2) The code section allegedly violated plus a brief descriptive statement of the nature of the County Violation;
 - (3) A statement of the amount due as a civil fine for the County Violation and notice that the animal is to be impounded if impoundment is authorized hereunder;
 - (4) A statement explaining all fines are due within 30 days of service of the notice;
 - (5) A statement advising that if any civil fine is not timely paid, the failure to comply may lead to an increase of the original fine or additional fines;
 - (6) A statement that the determination of County Violation is final unless appealed by filing a written notice of appeal including a fee, in an amount set by the Board of Commissioners, with the Director within 20 days of the date of the notice of County Violation was served; and
 - (7) A statement that an admission of County Violation would be on record and could lead to the increase of a fine on any subsequent County Violation issued under this Chapter as provided for in JCC 612.99.

(Ord. 2001-2. Passed 5-23-01.)

612.12 COUNTY VIOLATION AND IMPOUNDMENT.

Upon finding a dog engaged in activities as a Dangerous Dog or upon receipt from a complainant of evidence that a dog has been so engaged, the animal control officer or other law enforcement officer shall impound the dog. Unless otherwise required by State law, the impounding officer is required to give the keeper of the dog, if applicable, a copy of JCC 612.09 to 612.10, 612.14 to 612.20 or leave it at the last known address of the keeper. Unless otherwise required by State law, if the County Administrator has not received a request for hearing as provided for in JCC 612.14, the dog shall be killed in a humane manner on the third full business day after notice of impoundment of the dog.

(Ord. 2001-2. Passed 5-23-01.)

612.13 ADMISSION OF COUNTY VIOLATION; CONDITIONS.

(a) Any party who is issued a notice of County Violation for any County Violation under this Chapter may, in lieu of requesting a hearing, admit the County Violation and submit the fine to the Director as stated on the notice of County Violation. The party may attach a written explanation of mitigating circumstances with the payment of the fine.

(b) Any written explanations submitted under subsection (a) herein shall be reviewed by the hearings officer. The hearings officer shall have discretion to reduce the submitted fine and refund any portion not retained based on the written explanation.

(c) After considering the keeper's explanation, animal control reports or any other credible evidence, the hearings officer retains discretion to request a hearing and notice reasonably calculated to apprise the violator of the possible additional conditions or restrictions to which either the violator or animal may be subject. A hearing must be afforded to the parties not less than 14 days from the date that notice was sent by the hearings officer.

(d) When a person is issued a notice of County Violation for violation of JCC 612.09(b), wherein the dog:

- (1) Menaced, injured, or kills a domestic animal; or
- (2) Damages or destroys property of another; or
- (3) Bites or causes physical injury to a person; or
- (4) Violates JCC 612.09(c)(2) or (3);

the County Violation may be compromised as provided in subsection (e) below.

(e) If the person injured, damaged or otherwise detrimentally impacted by the commission of the County Violation acknowledges in writing any time before the final decision of the Director, hearings officer, or a court of requisite jurisdiction, that the person has received satisfaction for the injury, damage or detrimental impact, the Director, hearings officer or court may in their discretion, on payment of any cost or expense incurred, order the notice of County Violation dismissed.

- (1) The Director, hearings officer, or court when issuing an order to dismiss under this section, may impose additional conditions or requirements upon the party issued the County Violation, if in their determination the additional requirements are necessary to further protect the public health or safety.

(2) Any condition or requirement imposed pursuant to this Chapter shall be complied with prior to the entry of the final order dismissing the notice of County Violation(s).

(Ord. 2001-2. Passed 5-23-01.)

612.14 HEARING NOTICE AND REQUEST FOR HEARING.

(a) The County shall provide an opportunity for the dog keeper to receive a hearing. Except for otherwise provided, the County will provide notice of the hearing to the keeper pursuant to Jackson County Chapter 203.

(b) If a dog is impounded pursuant to JCC 612.12 or the keeper is cited pursuant to JCC 612.11, the keeper of the dog shall be entitled to a hearing, unless specifically required otherwise, as follows:

(1) The keeper of the dog must request a hearing in writing and deliver the request to the County Administrator no later than 5:00 p.m. on the second full business day after the notice of the dog impoundment. If the second business day after impoundment occurs on a Saturday, Sunday or County holiday, the hearing notice shall be filed with the County Administrator and the supervisor of the Animal Control facility on the first business day thereafter. The hearing request shall include the telephone number and address of the keeper. It must be accompanied with a payment in advance of the cost of boarding the dog for no less than 15 days.

(2) The keeper of the dog shall be served with actual notice of the hearing not less than three (3) days prior to the hearing. Actual notice may be accomplished by mailing the notice of hearing by certified or registered mail to the address listed on the request for hearing submitted by the keeper or by personal service. In no event shall the hearing be commenced later than the 15th day after impoundment.

(3) The hearing allowed for in this section shall be held pursuant to JCC 612.15 unless the keeper is subject to penalties prescribed under ORS 609.990(4), in which case Oregon criminal procedure laws shall apply.

(4) The decision of the hearings officer shall be the final decision of the County and is not appealable to the Board of Commissioners.

(5) If the keeper fails to make a first appearance on a citation for a County Violation, or fails to appear at any other subsequent time set for hearing or other appearance, and after the hearings officer considered the facts as presented, the hearings officer may enter judgment against the keeper and impose any penalty otherwise provided for in this Chapter.

(6) Notwithstanding JCC 612.07(c)(3), the dog shall not be euthanized until a full hearing, and a resulting determination is final unless the keeper fails to appear at the time set for the hearing or other appearance.

(Ord. 2001-2. Passed 5-23-01.)

612.15 HEARINGS PROCEDURE.

Unless otherwise specifically provided by law, hearings under this chapter will be performed pursuant to the procedures set forth under Jackson County ordinance governing administrative hearings.

(Ord. 2001-2. Passed 5-23-01.)

612.16 STANDARDS AND FACTORS FOR SENTENCING.

(a) If the hearings officer determines that a dog is a Dangerous Dog, the hearings officer will determine, based upon the facts established at the hearing, whether the dog shall be sentenced subject to any combination of restrictions, or sentenced to death, and penalize the keeper with fines, restrictions, and/or community service as set forth in JCC 612.18.

(b) The hearings officer may give deference to the animal control officers' opinions as those opinions relate to the propensities, characteristics, and safety of the animal in question concerning issues of dangerousness.

(c) Except as otherwise provided in this Chapter, or if contrary to mandates set forth in State law, a presumptive death sentence is imposed against a dog when the Director or hearings officer finds any of the following that:

- (1) The dog is "Dangerous" and caused serious physical injury or death to a person;
- (2) The dog is "Dangerous" and caused serious physical injury or death to another animal not owned by the keeper;
- (3) The dog committed two occurrences, whether arising out of the same incident or not, wherein the dog is found to be a "Dangerous Dog or Dangerous Animal" as defined under JCC 612.01(a)(6), or
- (4) The dog is found to be a "Public Hazard." In order to make such a determination, the Director or hearings officer must answer each of the following questions in the affirmative:

- A. Did the dog act aggressively?
- B. If the dog was found to have been provoked, would a reasonable person find that the dog acted overly aggressively?
- C. Will the dog likely continue to act aggressively without substantial human intervention?

(d) Notwithstanding the presumed sentencing described above, the Director or hearings officer shall have discretionary authority to impose requirements on the keeper of the dog in order to further the health, safety and welfare of the public which requirements may include, but not be limited to those restrictions set forth under JCC 612.18.

(e) Any decision in this section by the Director or hearings officer is a final decision of the County and can not be appealed to the Board of Commissioners.

(Ord. 2001-2. Passed 5-23-01.)

612.17 KILLING OR PHYSICALLY INJURING OR CHASING LIVESTOCK.

(a) In addition to sections otherwise provided, there is hereby adopted as County Law, Oregon State law ORS 609.156, 609.162, 609.163 and 609.168 and any regulations promulgated that are necessary for the implementation thereof.

(b) Unless otherwise required under Oregon Law:

(1) If at the conclusion of the hearing the hearings officer determines that the dog did not engage in the chasing of livestock, the dog shall be released to the keeper and any fees paid by the keeper shall be refunded. In such cases, if the dog was impounded upon receipt of evidence from a complainant, the hearings officer may require the complainant to pay the costs of keeping the dog during the impoundment.

(2) In any case where the citing officer or the Director based upon his/her investigation and review of such case determines there is insufficient evidence to establish the responsible party failed to prevent the dog from engaging in the wrongful behavior, the citing animal control officer or Director may, in lieu of issuing a notice of County Violation for violation of JCC 612.09(b), issue a notice of County Violation citing this subsection and specifically alleging that the dog is a "Public Hazard" under JCC 612.16(c)(4).

A. Any notice of County Violation issued pursuant to JCC 612.17(b)(2) shall not be subject to the imposition of a fine against the person cited but that person shall be

subject to all other restrictions and conditions lawfully imposed by the Director or a hearings officer pursuant to JCC 612.18.

(3) Any dog found in violation of chasing, physically injuring or killing livestock that is not killed is subject to State law requirements for implantation of an identifying microchip and any keeper or intended recipient of the dog is responsible for paying all costs associated with such implantation before the dog is released from impoundment if it is impounded.

(Ord. 2001-2. Passed 5-23-01.)

612.18 OTHER RESTRICTIONS; AUTHORITY TO IMPOSE.

(a) The Director or hearings officer shall have the authority to determine whether any violation of chapter 612 warrants other restrictions and conditions be imposed on the party guilty of an County Violation in addition to the civil fine provided for in JCC 612.99. Such restrictions and conditions include but are not limited to:

- (1) Adoption;
- (2) Kenneling;
- (3) Insurance;
- (4) Restitution;
- (5) Sterilization;
- (6) Training;
- (7) Community Service.

(b) This determination may be based upon an investigation that includes observation of and testimony about the circumstances and the nature of the County Violation, the animal's behavior, the keeper's control of the animal, the care and treatment of the animal, and other relevant evidence as determined by the Director or hearings officer. These observations and testimony can be provided by the County animal control officers or by other witnesses who personally observed the circumstances. They shall sign a written statement attesting to the observed circumstances and agree to provide testimony if necessary.

(c) The Director shall give the party guilty of a County Violation written notice by regular and certified mail or personal service of the hearings officer's decision imposing a fine and any conditions or restrictions under this section and JCC 612.99. This notice shall contain a brief explanation why the additional conditions and restrictions were imposed. If the party wishes to challenge the hearings officer's decision, the party may appeal, as provided under JCC 612.19.

(Ord. 2001-2. Passed 5-23-01.)

612.19 JUDICIAL REVIEW.

(a) Unless otherwise provided, judicial review under this chapter will only be permitted pursuant to the procedures set forth under ORS Chapter 34.010 to 34.102.

(b) All reasonable costs of animal impoundment and care incurred by the County during any period of review and/or appeal are payable to the County and must be paid before release if the animal can be released to any party. Failure to make payments within 10 days of Jackson County's published notice of payment due will be deemed abandonment of the impounded animal.

(1) Jackson County is not required to release an animal to the keeper until Jackson County is satisfied that payment for the animal's release is complete and valid.

(Ord. 2001-2. Passed 5-23-01.)

612.20 AREA AFFECTED.

This chapter shall be effective within all areas of this County except within the boundaries of any city which has by ordinance enacted its own dog control program, which conflict with the provisions of this chapter.

(Ord. 2001-2. Passed 5-23-01.)

612.21 CONCURRENT JURISDICTION.

The Jackson County hearings officer, the Justice Court of this County, and the Circuit Court of this State shall have concurrent jurisdiction for all violations of this chapter.

(Ord. 2001-2. Passed 5-23-01.)

612.22 RELATIONSHIP TO CERTAIN STATE STATUTES.

(a) Pursuant to ORS 609.015(1) (1999), this Chapter supersedes enforcement in Jackson County of the following state statutes: ORS 609.010(1) and (3), 609.040, 609.060, 609.090, 609.093, 609.095, 609.097, 609.100 and 609.110 (1999).

(b) In any instance where this Chapter is in conflict with the provisions of ORS 609.135 through 609.190 (1999), the provisions of this Chapter shall prevail.

(c) Enforcement of ORS 433.340 through 433.390 (1999) shall be the responsibility of the Director. Such enforcement procedures shall comply with the state law and are not subject to the enforcement provisions of this Chapter.

(d) Under no circumstances are the provisions of this Chapter intended to supersede the provisions of ORS 167.310 through 167.388 (1999). In any instance where this Chapter is in conflict with the provisions of ORS 167.310 through ORS 167.388 (1999), the state statute shall prevail.

(Ord. 2001-2. Passed 5-23-01.)

612.23 SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this Chapter is for any reason held invalid or unconstitutional by a court of competent jurisdiction, that portion shall be considered a separate, distinct and independent provision, and the holdings shall not affect the validity of the remaining portions of this Chapter.

(Ord. 2001-2. Passed 5-23-01.)

612.99 PENALTIES, FINES AND ALTERNATIVE SENTENCES.

(a) Violation of any provision under this Chapter, unless otherwise provided, is subject to penalties set forth under JCC 202.99.

(b) The law creating a County Violation may impose other penalties or remedies in addition to a fine set forth in Section 202.99.

(c) Enhanced Penalty.

(1) A person who has been convicted of JCC 612.09(b) within the 12-month period immediately prior to the date of occurrence underlying a conviction for a County Violation of this Chapter, is subject to a mandatory fine of not less than \$200, nor more than \$500. A person who has been convicted of two or more County Violations of JCC 612.09(b) within the 12-month period immediately prior to the date of occurrence underlying conviction for a County Violation of this Chapter, is subject to a mandatory fine of \$500.

(2) A person who has been convicted of JCC 612.09(a), (b), (d), (e), or (f) prior to the date of occurrence underlying a conviction for any of the same County Violations, is subject to a mandatory fine of not less than \$250, nor more than \$1000. A person who has been convicted of two or more County Violations of JCC 612.09(a), (b), (d), (e), or (f) prior to the date of occurrence underlying conviction for any of the same County Violations of this Chapter, is subject to a mandatory fine of \$1000 and not more than \$5000.

(3) In addition to any other penalty under this section, if the subject dog found in violation of any County Violation in JCC 612.09 is not licensed as required, the keeper is subject to a penalty of not more than \$1,000.

(d) In establishing the history of a dog for purposes of this Chapter, or the history of the keeper for purposes of this Chapter, the hearings officer shall consider all known determinations involving the dog or keeper by any court, or by a governing body, official or agencies, or state government, without regard to where or when the incident occurred.

(e) Late Payment Penalties. If a civil penalty is unpaid after 30 days, the fine then due shall be increased by 25% of the original amount; if the civil penalty is not paid after 60 days, the fine then due shall be increased by 50% of the original amount.

(f) Collection. At the discretion of the hearings officer, any civil penalty(ies) not paid within 30 days from the date of issuance of the notice of County Violation may be assigned to a collections agency for collection.

(g) Failure to Comply. The failure to comply with any conditions or restrictions lawfully imposed pursuant to a notice of County Violation or hearings officer's decision is a violation of this Chapter. Failure to pay the civil fine shall be a County Violation under this section. A notice of County Violation issued under this subsection for failure to comply or pay the civil fine shall be of the same classification as the original County Violation. The first notice of County Violation issued under this section shall not be construed as a second violation under this section.

(E.Ord 2003-29. Passed 10-15-03; P. Ord 2003-28. Passed 10-29-03.)

(h) Except as provided in subsection (i) below, all enforcement actions under this section shall be brought before a hearings officer.

(i) Any enforcement action for a violation of Failure to Comply wherein the circumstances of the failure to comply by the party in violation are determined by the hearings officer to:

(1) Be a substantial risk to public safety;

(2) Be a substantial risk to the care and treatment of the subject animal(s); or

(3) Be a failure to pay past-due fines on three or more County Violations within a 12-month period;

shall be brought in the state court as provided under ORS 203.810 (1999) and ORS 30.315 (1999).

(Ord. 2001-2. Passed 5-23-01.)