

ORDINANCE NS - 2248

AN ORDINANCE AMENDING BEND CODE CHAPTERS 5.20 ANIMALS & 6.25 PARKING CITATION AND OWNER RESPONSIBILITY

- A. This ordinance is intended to clarify provisions in Bend Code Chapter 5.20 based on experience applying the current version of that chapter.
- B. Bend Code Chapter 5.20 currently provides no civil penalty for the first violation of the prohibition on animals at large. This approach was adopted under the assumption that all animals at large would be impounded and that all first-time violators would pay an impound fee. Some animals are returned directly to their owners, so some first-time violators have paid a fee and others have not. The code amendments adopted by this ordinance will make all first-time violators pay a penalty for the violation.
- C. The amendments also clarify that the owners of animals that are impounded are responsible for additional costs relating to impoundment, including veterinary fees.
- D. Bend Code 5.20.035 currently requires the Judge to impose a list of restrictions on dangerous animals. When an animal is designated a dangerous animal, the Judge will now have the discretion as to which restrictions to impose.
- E. The provisions relating to unclaimed animals are being amended to simplify the process. Owner's rights of animals will be forfeited when the animal is not claimed for 5 days after being impounded. Animals that are taken to the shelter for safekeeping will be handled according to the shelters policies after the animal is not claimed for 10 days.
- F. All nuisance violations are classified as Class A civil infractions, whereas some were previously Class B civil infractions. All other violations of the chapter are established as Class B civil infractions.
- G. Bend Code 6.25.030(B) allows for the reduction of parking penalties for parking in disabled parking spots when the person can produce a valid placard and identification. This action is no longer authorized by state law, so the subsection will be removed.

Based on these findings, THE CITY OF BEND ORDAINS AS FOLLOWS:

- Section 1. Bend Code Section 5.20 Animals is revised to read as shown on the attached Exhibit A.
- Section 2. Bend Code Section 6.25.030 Illegal Cancellation of Parking Citation is amended by deleting subsection B. The Section is amended to read as follows:

6.25.030 Illegal Cancellation of Parking Citation.

A. No person shall dismiss a parking citation in any manner, except when approved by the parking hearings officer or City validation program.

B. A violation of this section is a Class B civil infraction.

First Reading Date: July 15, 2015

Second Reading Date: August 5, 2015

Yes: Jim Clinton, Mayor
Doug Knight
Sally Russell
Nathan Boddie
Casey Roats
Barb Campbell

No: None



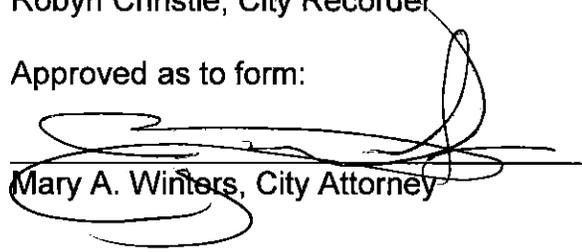
Jim Clinton, Mayor

Attest:



Robyn Christie, City Recorder

Approved as to form:



Mary A. Winters, City Attorney

EXHIBIT A

**Chapter 5.20
ANIMALS**

Sections:

- 5.20.000 Definitions.
- 5.20.005 Exemption for Law Enforcement Animals.
- 5.20.010 Owner/Keeper Responsibility for Animal.
- 5.20.015 Animal Waste.
- 5.20.020 Dog Licensing.
- 5.20.025 Animal at Large.
- 5.20.030 Off-Leash Areas.
- 5.20.035 Dangerous Animals.
- 5.20.040 Animal Nuisances.
- 5.20.045 Impound.
- 5.20.050 Unclaimed Animals.
- 5.20.055 Warrant for Seizure of Animals.
- 5.20.060 Rabid Animals.
- 5.20.065 Procedures and Penalties.
- 5.20.070 Destruction of Animals/Termination of Owner Rights.
- 5.20.075 Undertaking on Appeal.

5.20.000 Definitions.

As used in this chapter, the following definitions apply:

- A. **Animal** means domestic and exotic pets and livestock.
- B. **Dangerous animal** means any animal that has been found by the Judge to have:
 - 1. Without provocation, placed a person in reasonable fear of imminent physical injury; or
 - 2. Attacked a person or domestic animal without provocation; or
 - 3. Been trained for or used in animal fighting.
- C. **Exotic pet** means an animal kept and maintained as a pet excluding dogs and domestic cats.

- D. **Judge** means a Bend Municipal Court Judge, including any pro-tem Judges.
- E. **Keeper** means, in addition to its ordinary meaning, a person, firm, association or corporation which is in possession of, in temporary control of, or who is responsible for the care of an animal. The term "Keeper" also means the parent or guardian of the owner of an animal, if the owner is under the age of 18 years and the owner resides with the parent or guardian on the date of the alleged violation.
- F. **Off-leash area** means an area designated by the Bend City Council pursuant to BC 5.20.030 as an area where dogs are not required to be leashed.
- G. **Owner** means a person, firm, association or corporation that owns an animal.
- H. **Physical injury** means impairment of physical condition or substantial pain.
- I. **Run at large** means to be off the private premises where the animal is allowed to be by the person in charge of those premises and not under the complete, tethered control of the owner or keeper by adequate leash or bridle. Any animal in a vehicle shall not be considered to be "at large."

5.20.005 Exemption for Law Enforcement Animals.

An animal owned by a law enforcement agency is exempt from the provisions of this chapter; provided, that the animal is under the care and control of a law enforcement officer.

5.20.010 Owner/Keeper Responsibility for Animal.

The owner or keeper of an animal which violates the provisions of this chapter is responsible for the animal's acts and condition and the owner or keeper is subject to the penalties provided in BC 5.20.065 for the animal's violations of any provision of this chapter.

5.20.015 Animal Waste.

It shall be unlawful for an owner or keeper of an animal other than a domestic cat to allow it to deposit solid waste matter on any property other than the property of the owner or keeper of the animal. It shall be a defense to this action if the owner or keeper of the animal promptly removes the solid waste deposited by the animal.

5.20.020 Dog Licensing.

A. Every dog within the City that has a set of permanent canine teeth shall be licensed. The license tag shall be attached to a collar worn by the dog. The owner and/or keeper of the dog shall be found in violation of this chapter if the dog is not wearing its collar and tag or if the tag is not present on the dog's collar at any time.

B. An owner or keeper of a dog within the City shall license the dog not later than 30 days after the person becomes the owner or keeper of the dog or establishes residence within the City.

C. Licenses shall not be required for dogs owned by dealers, breeders or exhibitors if the dogs are kept in kennels exclusively for sale or exhibition purposes, or while such dogs are being transported by dealers, breeders, or exhibitors to and from a dog show or fair. Licenses are not required for dogs that are used as service animals for persons with disabilities. A companion or therapy animal is not a service animal unless the animal has been individually trained to perform one or more tasks for a person with disabilities and trained to behave in public. [Ord. NS-2151, 2010; Ord. NS-2142, 2010]

5.20.025 Animal at Large.

No animal other than a domestic cat may run at large. The owner or keeper of an animal is responsible for an animal at large.

5.20.030 Off-Leash Areas.

A. The Bend City Council may, in its discretion, designate certain areas of public parks which are owned and operated by the Bend Metropolitan Park and Recreation District (BMPRD) as areas where dogs are not required to be leashed, subject to the other provisions of this section.

B. A designation of an area as an off-leash area by the Bend City Council shall not be effective unless the BMPRD Board provides prior written notice to the Bend Chief of Police. Owners must comply with the BMPRD regulations applicable to all off-leash areas.

C. The owner or keeper of a dog that is in an off-leash area must control the dog at all times. The owner or keeper of a dog shall not allow a dog to engage in fighting with other dogs, or harass, bark at, bite, threaten or injure a person or animal.

D. If a dog or an owner or keeper is found to be in violation of this section, the dog may be excluded from the off-leash area for up to 24 hours. If a citation is issued for animal nuisance under BC 5.20.040, the dog shall be excluded from all off-leash areas, pending a review of and determination on the citation by the Judge.

Returning an animal to an off-leash park after being excluded is a Class A civil infraction.

E. Dangerous animals shall not be permitted in an off-leash area under any circumstances.

F. Any owner or keeper of a dog shall be subject to a Class A civil penalty for violation of the terms and conditions of an off-leash area as provided in this section.

5.20.035 Dangerous Animals.

An animal may be designated as a dangerous animal by order of the Judge. If an animal is designated as a dangerous animal, the Judge may impose any or all of the following restrictions:

- A. The owner or keeper of the dangerous animal shall cause the animal to be confined on the premises of the owner or keeper, either securely indoors or confined in a securely enclosed and locked pen or similar structure; such pen or structure must be securely constructed and must be adequate to ensure the confinement of the animal.
- B. No owner or keeper of a dangerous animal shall permit the animal to go beyond the premises of the person unless the animal is humanely muzzled and either securely leashed or otherwise securely restrained and led by a person physically capable of handling the animal.
- C. A requirement that the animal's owner or keeper post signs on the premises where the animal is kept indicating that the animal is a dangerous animal.
- D. If the animal designated as a dangerous animal is a dog, then the dog shall at all times be required to wear a special dog tag indicating that the dog is a dangerous animal and will be required to be micro-chipped. The owner shall be responsible for payment for the special tag and microchip.
- E. Dangerous animals are prohibited in all public parks.

5.20.040 Animal Nuisances.

- A. An animal other than a domestic cat is a nuisance if it:
 - 1. Bites, injures or attacks a person without provocation;
 - 2. Places a person in reasonable fear of imminent physical injury, without provocation;
 - 3. Injures or kills an animal belonging to a person other than the owner or keeper of the animal;
 - 4. Is trained for or used in animal fighting;
 - 5. Disturbs any person by frequent or prolonged noises;
 - 6. Chases vehicles or obstructs traffic;
 - 7. Chases people;

8. Damages property belonging to a person other than the owner or keeper of the animal;
9. Scatters garbage;
10. Attends a special event as defined in BC Title 7;
11. Its owner or keeper has failed to comply with BC 5.20.030(C) or off-leash regulations at an off-leash area.

B. A domestic cat is a nuisance if it:

1. Bites, injures or attacks a person without provocation;
2. Places a person in fear of imminent physical injury, without provocation;
3. Is trained for or used in animal fighting;
4. Disturbs any person by frequent or prolonged noises;
5. Attends a special event as defined in BC Title 7.

5.20.045 Impound.

A. An animal that has violated BC 5.20.025, BC 5.20.035, 5.20.040 or that lacks a required license may be seized and impounded by an officer of the Bend Police Department.

B. If an officer of the Bend Police Department is unable to apprehend such animals without risking injury to the officer or other people, the officer may kill the animal if other means to control the animal are ineffective or likely to be.

C. An impounded animal shall be placed in the animal shelter under contract with the City of Bend Police Department and shall be held by that animal shelter until the release has been authorized by the Bend Police Department, any citations issued to the animal's owner or keeper have been resolved by the court system or until the shelter has received a court order directing the shelter to release or humanely destroy the animal.

D. When an animal is impounded, the owner or person responsible for the animal shall pay processing and boarding fees to the Bend Police Department in an amount set by City Council. The processing fee shall cover the costs of collecting and transporting the animal to the animal shelter, and the costs of administering the release of the animal. The owner or responsible person for the animal shall be responsible for any veterinary

expenses necessary for the health and safety of the animal or staff. The processing and boarding fees shall be paid before the animal may be released.

5.20.050 Unclaimed Animals.

- A. If an impounded animal has not been claimed for 5 or more days, the owner's rights will be forfeited, and the animal may be handled according to the animal shelter's policies, rules and regulations, including humane destruction of the animal.
- B. If an animal has been impounded and one or more citations have been issued to the animal's owner or keeper, but the animal's owner or keeper does not make a personal or written appearance on the citation(s) in the Bend Municipal Court within the time required by the citation(s), then the owner's rights will be forfeited, and the animal may be handled according to the animal shelter's policies, rules and regulations, including humane destruction of the animal.
- C. If an animal has been impounded and the owner or keeper of the animal makes a first appearance in the Bend Municipal Court, but the owner or keeper later fails to appear as required by the Municipal Court, then the owner's rights will be forfeited, and the animal may be handled according to the animal shelter's policies, rules and regulations, including humane destruction of the animal.
- D. Any animal taken to the shelter as a safekeeping for the owner shall remain under care of the shelter for 10 days. If the owner of the animal does not arrange the reclamation of the animal before the 11th day, the animal will be handled according to the animal shelter's policies, rules and regulations, including humane destruction of the animal.

5.20.055 Warrant for Seizure of Animals.

- A. Any member of the Bend Police Department, including community service officers, may apply to the Bend Municipal Court for a warrant authorizing the search for and seizure of any animal that has violated BC 5.20.040. The Bend Municipal Court Judge may issue the warrant based on a prima facie case that the violation has occurred.

B. Nothing in this section is intended to limit the search and seizure authority of City police officers otherwise provided by law.

5.20.060 Rabid Animals.

Management and disposition of rabid animals shall be as prescribed by Oregon Law.

5.20.065 Procedures and Penalties.

A. Violation of BC 5.20.030, BC 5.20.035 and BC 5.20.040 are Class A civil infractions.

B. Violations of other provisions of this Chapter are Class B civil infractions.

C. Reimbursement of Impound Costs. The Bend Municipal Court Judge may order the owner or keeper of an animal that violates any provision of this chapter to reimburse the City of Bend for any and all impound costs in excess of the fees imposed by BC 5.20.045.

D. Exclusion from Off-Leash Areas. If an animal is found in violation of the provisions of this chapter and the violation occurred in an off-leash area, the Bend Municipal Court Judge may order that the animal be excluded from all off-leash areas.

5.20.070 Destruction of Animals/Termination of Owner Rights.

A. If an animal has been found to have violated BC 5.20.040(A)(1) or (B)(1) the Judge shall enter an order terminating the animal owner's rights to the animal and/or requiring that the animal be humanely destroyed.

B. If an animal has been found to have committed two or more violations of BC 5.20.040(A)(2), (3) or (4) within a five-year period, the Judge shall enter an order terminating the animal owner's rights to the animal and/or requiring that the animal be humanely destroyed.

C. The Judge may terminate an animal owner's right to the animal and direct that the animal be placed in an animal shelter for possible adoption and/or prohibit the owner from owning or possessing animals in the City if:

1. The Judge determines that an animal's violation of BC 5.20.040(A)(1), (2), (3), or (4) or (B)(1), (2), or (3) was caused by the neglect, abuse or tormenting of the animal by its owner-keeper.

2. The animal or the owner of the animal has committed two or more violations of BC 5.20.040 within a one-year period.

3. In deciding whether to terminate an owner's rights to an animal under this section, the Judge shall consider the extent to which each violation was attributable to an action of the owner.

4. Violation of an order issued under this section is a Class A civil infraction.

D. The Judge may suspend any orders in subsection (A), (B), or (C) of this section for a period of up to five years, subject to conditions, which may include:

1. A requirement that neither the animal nor the animal's owner or keeper commit any further violations of this chapter.

2. A requirement that the animal's owner or keeper pay Court ordered penalties resulting from the animal's violation of this code.

3. A designation of the animal as a dangerous animal that is subject to the dangerous animal restrictions described in BC 5.20.035(D).

4. A provision that allows law enforcement officers, upon a future violation of BC 5.20.025, 5.20.035 or 5.20.040 by the animal, to take the animal into custody pending further review and order by the Judge.

5. Any other condition that the Judge deems appropriate.

5.20.075 Undertaking on Appeal.

If an animal has been impounded and the owner or keeper has filed an appeal of an order of the Bend Municipal Court, then the owner or keeper of the animal must provide a bond, deposit or other security to assure payment of the cost incurred by the City for housing the animal pending appeal. The bond, deposit or other security shall be set in an amount not less than the cost of impounding the animal for six months at the rate charged the City by the animal shelter.