

90.05  
90.12  
90.02

## CHAPTER 90: ANIMALS

### Section

- 90.01 Definitions
- 90.02 Dogs at large prohibited
- 90.03 Barking and howling prohibited
- 90.04 Waste matter
- 90.05 Licenses, fees and exceptions
- 90.06 Abandoned dogs
- 90.07 Sick or injured dogs
- 90.08 Impoundment
- 90.09 Killing or chasing livestock
- 90.10 Dangerous animals
- 90.11 Biting dogs or other animals
- 90.12 Vicious dogs
- 90.13 Dead dogs; removal of carcasses
- 90.14 Entry onto private land
- 90.15 Enforcement; citations
- 90.16 Raising of chickens within city limits
  
- 90.99 Penalty

### § 90.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ABANDONED DOG.** Any dog left without proper food and water for a period of over 24 hours or any barking dog left without supervision for a period of over 24 hours.

**AT LARGE.** A dog or other animal inside the corporate limits of the city, off the premises of the owner, and not under complete voice control or by adequate leash. Excepted from this definition is a dog in obedience or field training exercises under the direct supervision of a handler in areas designated and posted by the city for the field training.

**BARKING DOG.** A dog which, indoors or outdoors, persistently barks or howls for five minutes or more, four times with a one-hour period.

**Gearhart - General Regulations**

**COMMERCIAL DOG KENNEL.** A place of business for the care of dogs, including but not limited to the boarding, grooming, breeding, training or selling of dogs. The term is not intended to include an animal hospital or noncommercial kennel.

**DANGEROUS ANIMAL.** An animal, other than a dog, which has the propensity to bite or attack any person without provocation and the capacity to inflict serious harm on that person. It shall be presumed that any animal, other than a dog, which has injured a human being on two occasions without provocation is a **DANGEROUS ANIMAL**.

**DOG CONTROL AUTHORITY.** The dog control enforcement authority appointed by the city.

**DOG CONTROL OFFICER.** An officer of the dog control authority or a peace officer.

**DOG OWNER.**

(1) A person who is the licensed owner of a dog, who has a right of property in a dog, who harbors a dog or exercises care, possession, custody or control of a dog or who knowingly permits a dog to remain on any premises occupied by the person. Except for purposes of specific sections of this chapter, **OWNER** does not include veterinarians or commercial kennel operators temporarily maintaining on their premises, for a period of not more than 30 days, dogs owned by other persons.

(2) Any person, except a veterinarian or commercial kennel operator, who resides where a dog is kept, harbored or cared for, shall be presumed to be the **OWNER** of that dog. This presumption may be rebutted by proof that the person has no property right in the dog, is not the licensed owner and is neither harboring nor caring for the dog.

**LEASH.** A humane device constructed of rope, leather strap, chain or other sturdy material not exceeding eight feet in length, being held in the hand of a person capable of controlling the animal to which it is attached.

**LIVESTOCK.** Cow, sheep, horse, goat, swine, fowl, poultry and any fur-bearing animal bred and maintained commercially or otherwise within a pen, cage or hutch.

**NEUTERED.** The removal of the ovaries and uterus in female dogs and the gonads in male dogs.

**NONCOMMERCIAL DOG KENNEL.** An establishment or premises where three or more dogs, over four months of age, are boarded, kept or maintained for the hobby of the householder. The term does not include an animal hospital.

**PEACE OFFICER.** A city police officer or other officer specified in O.R.S. 161.015.

**PERSON.** A natural person, association, corporation, firm or partnership.

***VIOUS DOG.*** A dog which has the propensity to bite or attack a person or other animal without provocation and the capacity to inflict serious harm on that person or other animal. A dog which has bitten a human being or other animal on two occasions without provocation is presumed to be a ***VIOUS DOG.***

***WATCHDOG.*** A vicious dog confined at a business or commercial establishment to protect merchandise.

(Am. Ord. 867, passed 7-11-2012)

## **§ 90.02 DOGS AT LARGE PROHIBITED.**

No person shall own a dog at large.

Penalty, see § 10.99

## **§ 90.03 BARKING AND HOWLING PROHIBITED.**

Barking dogs are prohibited. A person who owns or is in control of a barking dog is subject to:

(A) First offense within a 12-month period: written warning.

(B) Second and subsequent offenses within a 12-month period: a fine of up to \$500 per offense as outlined in the provisions of § 10.99.

(Am. Ord. 867, passed 7-11-2012) Penalty, see § 10.99

## **§ 90.04 WASTE MATTER.**

No dog owner shall allow the dog to deposit solid waste matter on any improved property other than that of the dog owner. It shall be a defense to this section if the dog owner immediately removes the solid waste.

Penalty, see § 10.99

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

(A) (1) Every owner of a dog which has attained the age of six months shall immediately obtain a license for the dog.

(2) Licenses shall be valid for one year from the date of issuance or until the sale or gift of the dog, whichever first occurs.

(3) No license shall be issued until a certificate of vaccination for rabies, valid for the license year, is presented to the dog control authority.

**Gearhart - General Regulations**

(4) Dog owners shall renew the dog license before it becomes delinquent for as long as they own the dog.

(5) A license tag issued to a dog owner shall be attached securely to a collar or harness on the dog for which it was issued. If a license tag is lost, the owner may obtain a duplicate license tag upon satisfactory proof of loss and payment of the required fee.

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

(2) Kennel licenses are in lieu of individual dog licenses. Dogs licensed under this section must at all times be confined to the kennel premises so as not to be at large.

(3) No kennel license will be issued under this section to anyone not in conformity with applicable zoning statutes and ordinances. Conformity with zoning requirements is the responsibility of the applicant or licensee, and nonconformance with those requirements constitutes grounds for license revocation.

(4) The following provisions shall govern revocation of kennel licenses:

(a) Three or more violations of this chapter within a period of 12 calendar months shall result in revocation of licenses granted under this section.

(b) Revocation may occur only after a hearing before the City Administrator and after the licensee has been mailed a notice of a time to appear at least five days in advance of the hearing. The notice shall include a general statement of the reasons for commencing the revocation proceedings.

(c) If the license is revoked, the licensee shall have ten days in which to file a written appeal, on a form to be provided by the dog control authority, to the City Council. Should no appeal be made, the revocation is effective upon the expiration of the appeal period.

(C) The dog license fee which is due and payable upon the issuance of a license and the other fees required to be paid under the provisions of this chapter shall be set by Council resolution.

(D) (1) No license fee is required for any dog owned by a blind person who uses the dog as a guide or for any other dog which is trained and used as an aid to a handicapped person.

(2) A license shall be issued for the dog upon proper proof of rabies vaccination and upon filing of an affidavit by the blind or handicapped person showing the dog to come within the exemption. The affidavit shall be filed with the dog control authority.

(3) Dog owners applying for the reduced fee for neutered dogs must present to the dog control authority a certificate from a licensed veterinarian stating that the dog to be licensed has been neutered.

(4) After application upon a form to be provided by the dog control authority, a permit may be issued to the licensed owner of a dog to use that dog as a watchdog.

(5) The fee for the permit shall be in addition to the individual dog license fee.

(6) Applicants for the dog license fee for owners 65 years of age or older must present to the dog control authority proper proof of rabies vaccination and proper proof of the owner's age.

#### **§ 90.06 ABANDONED DOGS.**

(A) No dog owner shall permit the dog to be abandoned.

(B) Any police officer, upon finding an abandoned dog not impounded by the dog control authority, may:

(1) Provide food and water and arrange for needed medical service for the abandoned dog, which expenses shall be paid by the dog owner; and/or

(2) Impound any abandoned dog. As soon as practical, notice of impoundment under this section shall be posted at the house or be mailed to the owner or, if the owner is unknown, to the address at which the dog was found and impounded.

Penalty, see § 10.99

#### **§ 90.07 SICK OR INJURED DOGS.**

(A) Any sick or injured dog found by a dog control officer off the premises of its owner may be delivered to its owner. Any dog for which the owner is either unknown or cannot be reached after reasonable attempts to do so shall be delivered by the dog control authority to a veterinarian for medical treatment. Upon delivery to a veterinarian, the following procedures shall apply:

(1) When the dog is unlicensed and the owner is unknown, the veterinarian shall determine whether the dog is so severely injured or incurably crippled that the humane thing to do would be to destroy the dog. If a determination is made to destroy the dog, the dog may be destroyed immediately. If the veterinarian determines instead that the dog should be given treatment, the treatment may be given. However, the dog may be destroyed if unclaimed by its owners within 72 hours after being delivered to the veterinarian.

(2) When the dog is licensed or the owner is known and cannot be reached, the veterinarian shall determine whether the dog is so severely injured or incurably crippled that the humane thing to do would be to destroy the dog. If a determination is made to destroy the dog, the dog may be destroyed immediately. If the veterinarian determines instead that the dog should be given treatment, the treatment may be given. However, the dog may be destroyed if unclaimed by its owner within 120 hours after being delivered to the veterinarian.

(B) Any dog control officer may humanely destroy any dog too severely injured to move and not on the property of its owner, when the owner is either unknown or cannot be reached after reasonable attempts to do so.

(C) Arrangements for fees, selection of veterinarians, liability of veterinarians shall be as determined by separate contracts between the dog control authority and individual veterinarians.

(D) The owner shall pay for any reasonable medical expenses incurred in accordance with this section.

#### **§ 90.08 IMPOUNDMENT.**

(A) (1) Any police officer may impound a dog that is in violation of this chapter.

(2) The dog control authority shall impound a dog if the owner of the dog has not posted bail or paid a fine for a violation of this chapter imposed by the Municipal Judge. For any dog so seized, the notice and disposition of the dog shall be in the same manner as for licensed dogs under the provisions of this chapter.

(3) Any person whose property has been trespassed upon by any dog in violation of this chapter may immediately apprehend that dog upon the person's premises and hold the dog until delivery to a dog control officer.

(4) Any person who so impounds a dog must immediately notify the dog control authority of the impoundment.

(B) (1) The dog control authority shall keep any dog impounded for the period of time specified by this chapter. A daily record of dogs shall be kept at the place of impoundment and shall be made available to the public. The dog control authority shall dispose of dogs in accordance with the following provisions:

(a) An unlicensed dog or a dog for which the owner is unknown which has not been redeemed within 72 hours after impoundment may be sold or destroyed; or

(b) A licensed dog or a dog for which the owner is known, which has not been redeemed within 120 hours of notification of the owner by telephone contact or by mailing of impoundment notice may be sold or destroyed.

(2) Except as provided herein, the dog control authority shall notify the owner by telephone or by the mailing of an impoundment notice as soon as practicable after impoundment. The impoundment notice shall advise the owner of the place where the dog is kept, the procedures required for the redemption of the dog, the fees for the impoundment, daily care and redemption, and the consequences of failure to redeem the dog.

(3) A dog owner whose dog is impounded as a vicious dog hereunder, within the period described herein, whichever is applicable, may apply to the Municipal Judge for the release of the dog. The Municipal Judge shall set a time and place for hearing the application and notify the impoundment officer, and upon a summary hearing, the Municipal Judge shall have full power to determine whether the dog has been wrongfully impounded and whether it shall be returned to its owner, and upon what terms.

(4) Notwithstanding the previous divisions, any dog given to the dog control authority by the owner for disposal may be destroyed immediately, or, in the alternative, sold to any person. Dogs specifically requested by the owner to be destroyed shall be destroyed at the owner's cost.

(C) (1) Redemption of an impounded dog shall be made by exhibiting satisfactory proof of ownership and by paying the following required fees and charges:

- (a) Impoundment fee;
- (b) Daily care fee;
- (c) License and rabies vaccination fees, if required; and
- (d) Medical care fees, if required.

(2) Impounded dogs may be sold.

(3) When a dog is sold by the dog control authority, the purchaser shall pay any required license and rabies vaccination fees.

(4) No impoundment charge shall be made for a dog released after the Municipal Court's determination that no violation occurred.

(5) No live dog shall be sold by the dog control authority for surgical or medical demonstration or vivisection.

(6) Except as otherwise provided, if after 120 hours an impounded dog cannot be sold, the dog control authority is authorized and empowered to destroy the dog by any humane method permitted under state law.

#### **§ 90.09 KILLING OR CHASING LIVESTOCK.**

(A) No dog owner shall permit the dog to chase, kill, wound or injure livestock not belonging to the dog owner while off the premises owned or under the control of the dog owner.

(B) If any dog not under the control of any person is found chasing livestock not the property of its owner, it shall be deemed prima facie as engaged in killing, wounding or injuring livestock.

(C) No person shall own any dog with knowledge that it has killed or wounded livestock.

(D) No owner shall permit a dog to be at large and to chase livestock not belonging to the dog owner.

Penalty, see § 10.99

**Statutory reference:**

*Livestock owner; right of action against dog owner, see O.R.S. 609.140*

*Right to kill dog that harms or chases livestock, see O.R.S. 609.150*

**§ 90.10 DANGEROUS ANIMALS.**

(A) No person who owns, has a right of property in, or harbors a dangerous animal or has in the person's care, possession, custody or control such an animal shall allow the animal to be exposed to the public.

(B) A dangerous animal which has been exposed to the public may be impounded by a dog control officer and disposed of following the procedures of this chapter for impoundment and disposition of dogs. However, before a dangerous animal is released, the Municipal Judge must enter findings that proper precautions will be taken to insure the public health and safety.

(C) A dangerous animal running at large which, because of its disposition or diseased condition, is too hazardous to apprehend may be destroyed by a dog control officer, or by a person acting in defense of self, family or another person.

Penalty, see § 10.99

**§ 90.11 BITING DOGS OR OTHER ANIMALS.**

(A) (1) The owner of a dog or other animal which bites a human being shall immediately notify the dog control authority of the bite, the time and circumstances of the bite, and the name and address of the person bitten, if known.

(2) Any person who is bitten by a dog or other animal shall immediately notify the dog control authority of the bite giving a description of the dog or other animal, the time and circumstances of the bite and the name and address of the owner, if known.

(3) When a doctor, veterinarian, hospital employee or other person has information that a person has been bitten by a dog or other animal, the person shall immediately notify the authority.



(B) (1) When either the dog control authority, the Departments of Public Health and Sanitation or County Public Safety, has grounds to suspect that a dog or other animal is infected with the disease of rabies, a written notice shall be delivered to the owner of the dog or other animal.

(2) The owner shall thereupon be required to quarantine the dog or other animal for ten days. The biting of any person by the dog or other animal shall constitute adequate grounds for suspecting the dog or other animal to be so infected.

(3) The delivery of the notice to a member of the owner's family, 14 years of age or older, at the premises where the dog or other animal is kept, or at the owner's usual place of abode, shall be considered a delivery of the notice to the owner. Any dog or other animal required to be quarantined shall be confined as follows:

(a) On the owner's premises in a manner as to prevent it from being in contact with any other animal or person; or

(b) At the owner's expense in a veterinary hospital, the County Humane Society or a kennel approved by either the Department of Health and Sanitation or the dog control authority.

(4) Any animal that has been bitten by a dog or other animal proved to be rabid shall be destroyed.

(5) If a dog or other animal exhibits symptoms of rabies while it is under quarantine, the Director of Public Health may order in writing that it be destroyed and that its head be submitted to the State Public Health Laboratory.

#### **§ 90.12 VICIOUS DOGS.**

(A) Except for licensed watchdogs, no person shall own a vicious dog.

(B) A vicious dog may be impounded by any dog control officer and disposed of in accordance with the provisions of this chapter for the impoundment and disposition of dogs.

(C) A vicious dog running at large which because of its disposition or diseased condition is too hazardous to apprehend may be destroyed by a dog control officer or by a person acting in defense of self, family or another person.

Penalty, see § 10.99

#### **§ 90.13 DEAD DOGS; REMOVAL OF CARCASSES.**

No person shall knowingly permit a dog carcass owned by the person to remain on public property or to be exposed on private property for more than 24 hours.

Penalty, see § 10.99

**§ 90.14 ENTRY ONTO PRIVATE LAND.**

Any dog control officer may enter onto private land in the course of the officer's duties in enforcing the provisions of this chapter, but the officer shall not enter into any building or dwelling without legal authorization or permission of the owner or occupant of the premises.

**§ 90.15 ENFORCEMENT; CITATIONS.**

(A) Dog control officers are hereby empowered to enforce the provisions of this chapter.

(B) The dog control officer may use a citation as provided by state law in lieu of a misdemeanor complaint to charge a person with violation of this chapter.

**§ 90.16 RAISING OF CHICKENS WITHIN CITY LIMITS.**

(A) *Purpose.* This section is enacted to protect, preserve, and promote the health, safety, welfare, of the citizens of Gearhart through the control of raising domestic chickens in zones in addition to the RA Zone.

(B) *Standards.* The City Council ordains that:

(1) Chickens shall be permitted for single-family dwellings in the R-1 and R-2;

(2) With the approval of a Gearhart domestic chicken permit, each property may be permitted a maximum of four chickens;

(3) At no time are roosters permitted within the city;

(4) Raising chickens for commercial use is prohibited;

(5) Chickens shall be kept confined at all times on the property. No chickens shall be permitted to run at large;

(6) The facility shall be maintained in a sanitary condition so as to prevent disease, and so as to not create a nuisance as defined by Gearhart Nuisance Ordinance Chapter 92, and to prevent rodent and insect populations from infestation of the facility; and

(7) The property owner shall be responsible for maintaining the facility so as not to create a nuisance.

**(C) *Enforcement.***

(1) The following individuals shall enforce this section: the police will have primary responsibility for the enforcement of the animal regulations contained in this section. Nothing in this section shall prevent the City Administrator or Police Chief from obtaining voluntary compliance by way of warning, notice or education.

(2) The city shall have the right to require additional measures or to require the removal of the chickens if they believe that the purposes of this section are not met and that the keeping of such animals may impair public health and create a nuisance.

(3) The city shall notify the property owner of any violation and the property owner shall ensure compliance within 48 hours of the date of the notice.  
(Ord. 828, passed 12-4-2009)

**§ 90.99 PENALTY.**

(A) Any person who violates a provision of this chapter for which no other penalty is provided shall be subject to penalties as provided in § 10.99 of this code.

(B) A person who violates a provision of § 90.16 is guilty of an infraction which is punishable by a fine not to exceed \$500.

(C) Each occurrence of a violation, or in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.  
(Ord. 828, passed 12-4-2009)

