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**CHAPTER 403  
ANIMAL SERVICES AND DOG CONTROL**

**GENERAL PROVISIONS**

**403.001 Purpose.** To protect the health, safety, and welfare of the residents and citizens of Klamath County and to provide for control of dogs and the protection of animals; to prohibit tampering with law enforcement animals; to provide guidelines and information, and to give authority for enforcement and setting fees.

**403.002 Scope.** This ordinance does not limit nor supercede any provision established in O.R.S. 609.010 through O.R.S. 609.190, or in any other O.R.S. or O.A.R. dealing with animals, but does supplement those provisions. A dog in the performance of law enforcement duties shall not be considered a dangerous dog or a public nuisance.

**403.003 Powers and Authority.**

(1) The Dog Control Officer or his/her assistants, Code Enforcement Officers, the Sheriff, the Local Health Officer or their designees are required and shall have full power and authority to do any and all things necessary, incidental or proper, within the scope of their department's authority, in the enforcement of this Chapter, State Statutes, and Oregon Administrative Rules relating to animal control within the County.

(2) The Dog Control Office shall be the County office cognizant of state and county agency jurisdictions regarding animal issues and where appropriate, they shall provide coordination, referral and assistance to the public, other agencies and departments.

(3) No person shall hinder or attempt to prevent the enforcement of this Chapter.

(4) The power and authority of the Dog Control Officer and his/her assistants, Code Enforcement Officers or the Local Health Officer or their designee shall not include the power to arrest violators.

**403.005 Definitions.**

(1) "**Abandonment**" means leaving an animal at a location without providing for the animal's continued care.

(2) "**Abuse**" means inflicting or causing physical injury to an animal.

(3) "**Adequate Care**" means the provision of adequate food, adequate water, adequate shelter, adequate sanitary conditions,

adequate exercise and keeping the animal in a state of good health.

(4) "**Adequate Food**" means the provision at suitable intervals, not to exceed 24 hours, of a quality of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal to allow for proper growth and weight. Such foodstuff shall be served in a receptacle, dish, or container that is physically clean and in which agents injurious to health have been removed or destroyed to a practical minimum.

(5) "**Adequate Sanitary Conditions**" means a space free from health hazards including excessive animal waste, inappropriate ventilation of air, overcrowding of animals, or other conditions that endanger the animal's health.

(6) "**Adequate Shelter**" means, for an animal other than a dog engaged in herding or protecting livestock, shelter which will keep an animal dry, out of the direct path of winds, sufficiently insulated and ventilated, and out of direct sun, at a temperature level that is healthful for the animal. The shelter shall be windproof and moisture proof. The structure shall be of suitable size to accommodate the breed and size of the animal and allow retention of body heat. The structure must include four walls, a roof and a solid floor raised up off the ground, with an opening entrance large enough to allow access to the animal, but placed in such a way as to keep the animal out of the direct path of winds. Metal barrels do not provide adequate shelter for a dog, or other animals and are prohibited for that purpose. The structure shall be provided with sufficient quality of suitable bedding material such as hay, straw, cedar shavings, or the equivalent. For all animals, the containment area shall be free of accumulated waste and debris so that the animal shall be free to walk or lie down without coming in contact with any waste or debris, and a suitable method of draining shall be provided to rapidly eliminate excess water or moisture.

(7) "**Adequate Water**" means a constant access to supply of clean, fresh water provided in a sanitary manner that is suitable for the age and species of the animal unless otherwise directed by a veterinarian licensed to practice veterinary medicine.

(8) "**Animal**" means any domestic non-human mammal except livestock.

(9) "**Assistance Dog**" means a dog guide trained to assist a physically impaired person in one or more daily life activities as defined in ORS 346.610.

(10) "**Cruelty**" means to abuse, neglect, abandon, or to provide inadequate care, or to cause physical injury or death to an animal.

(11) "**Dangerous dog**" means any dog, which bites any human being or other domestic animal or which demonstrates menacing behavior towards any human beings or domestic animals. This does not include a dog that bites or attacks a domestic or wild animal on the property of its keeper or harms or menaces anyone who has tormented or abused it. A dog in the performance of law enforcement duties shall not be considered a dangerous dog or a public nuisance.

(12) "**Dog**" means any member of the canine family.

(13) "**Dog at Large**" means any dog off the premises or property of its keeper, and not restrained by a leash, tether, or other physical control device not to exceed eight (8) feet in length and under the physical control of a person; or which enters upon land of another person without authorization of that person or a lawful occupant. Excepted from this definition are dogs under the supervision of a person for the purpose of dog shows, obedience training or trial, hunting, chasing, or treeing predatory animals or game birds, protecting livestock, or in other related agricultural or law enforcement activities.

(14) "**Dog kept primarily in a kennel**" means a dog that is housed primarily in a kennel and not in the residence of its keeper and that is not allowed to run at large.

(15) "**Domestic Animal**" means any animal other than livestock that is owned or possessed by a person.

(16) "**Habitual Offender**" means any keeper that has been found/pled guilty of allowing a dog to do the same or similar offense more than two (2) times or any owner or keeper that has been found/pled guilty of more than 2 dogs to the same or similar offenses.

(17) "**Keeper**" means a person who owns, possesses, controls or otherwise has charge of a dog, with the exception of veterinary hospitals, humane societies, and commercial animal care facilities. According to O.R.S. 609.020, dogs are personal property. For the purpose of this Chapter, the owner or the keeper is responsible for licensing and also for the behavior of the 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 is a minor, the parents or guardian of that minor shall be responsible for compliance with the specifications of this Chapter.

(18) "**Kennel**" means a premises for the housing of dogs.

(19) "**Kenneled Dog**" means any premises where one or more dogs, at least six months of age, are kept primarily in a kennel in accordance with KCC 403.102(8).

(20) "**Livestock**" means ratites, psittacines, horses, mules, jackasses, cattle, llamas, alpacas, sheep, goats, swine,

domesticated fowl and any fur-bearing animal bred and maintained commercially or otherwise, within pens, cages and hutches.

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

(22) "**Neglect**" means failing to provide adequate care for an animal in such person's custody or control.

(23) "**Physically impaired person**" means any person who is permanently physically impaired, whose physical impairment limits one or more of daily life activities and who has a record of impairment and is regarded by health care practitioners as having such an impairment, requiring the use of an assistance animal including but not limited to blindness, deafness and complete or partial paralysis.

(24) "**Public Nuisance**" is defined as follows:

(a) A domestic animal is a public nuisance if it is a danger to public health and safety or causes injury to a person or damage to property.

(b) A dog is a public nuisance as defined in ORS 609.095, except as provided in ORS 609.097 or if it bites or kills an animal trespassing upon premises occupied exclusively by the dog's keeper.

(25) "**State of Good Health**" means freedom from disease, illness, excessive matting and parasites that cause sores, and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment with a licensed veterinarian.

(26) "**Wolf Hybrid**" means any wolf/dog mixed breed.

**403.006 Animals in Parked Vehicles.** No person or keeper shall leave an animal in any standing or parked vehicle in such a way as to endanger the animal's health, safety or welfare. After making a reasonable effort to locate the owner or keeper of the animal, a Dog Control Officer or Police Officer is authorized to use reasonable force to remove the animal from the vehicle whenever it appears that exigent circumstances exist that the animal is in imminent danger. This includes animals secured in vehicles impounded by law enforcement agencies if the animal is released by the impoundment agency.

**403.007 Report of Animal Bites and Quarantine.**

(1) In accordance with O.R.S. Chapter 433, any person having direct knowledge of a bite by any animal that causes a break in the skin of any human shall immediately report the facts to the Local Health Officer.

(2) The Local Health Officer will promptly contact the appropriate agency with authority to impound and quarantine the

animal pursuant to the rules and regulations of the State Health Division. Impoundment and quarantine shall be:

- (a) By a private veterinarian;
- (b) At the County animal impound facility;
- (c) At the designated County contracted animal care facility; or
- (d) At a location or facility designated by the Local Health Officer.

(3) The keeper of any such animal shall be responsible for all costs and expenses incurred for such impoundment and quarantine. If impound and quarantine is at a county operated or contracted facility, all impoundment and quarantine fees must be paid before the animal will be returned or surrendered to the owner or keeper.

(4) Owners not wishing the return of their animal after the impound and quarantine period may arrange for the animal to be humanely destroyed upon expressed consent of the Local Health Officer. Owners or keepers choosing this option are still responsible for all impound, quarantine and other associated costs.

#### **403.008 Public Nuisance.**

(1) A dog or other domestic animal is a public nuisance as defined by 403.005 (24) of this Chapter. It is a violation for a keeper to maintain a dog or other domestic animal, that is a public nuisance.

(2) When livestock is a nuisance, the issue shall be resolved civilly between the complainant and the livestock owner in accordance with ORS Chapters 607 and 608.

### **DOG REGULATIONS AND VIOLATIONS**

**403.100 Dog Control Officer.** The Board of County Commissioners shall appoint the Dog Control Officer whose salary shall be fixed by the Klamath County Board of Commissioners. The Dog Control Officer is responsible for efficiently managing all aspects of the Dog Control Department and shall report to the Board of County Commissioners. The Dog Control Officer may hire, such assistants and officers as may be necessary for the efficient handling of Dog Control functions and duties, as outlined in this Chapter and in the Dog Control Policies and Procedure Manual.

#### **403.101 Rabies Vaccination.**

(1) All dogs over six months of age or which have a set of permanent canine teeth, whichever comes first, must be inoculated

against rabies and must thereafter remain current on rabies vaccinations.

(2) Veterinarians shall provide to the Dog Control Office copies of any rabies vaccination certificates within thirty (30) days of such vaccination.

#### **403.102 Dog Licenses.**

(1) Every keeper of a dog which is over six months old, has received a rabies vaccination, or which has a set of permanent canine teeth, whichever comes first, shall, within thirty (30) days after he/she becomes keeper of the dog, procure from the County a license for the dog by paying to the County a license fee.

(2) A Humane Society holding dogs for adoption is not required to license dogs, but is required to advise those adopting a dog, in writing, that they must license the dog within eight (8) days from the date of adoption. Humane Societies shall provide to the Dog Control Office the names and addresses of those adopting dogs within eight (8) days of such adoption. All dog owners must provide Dog Control with current address information. Failure to do so is a violation of this Chapter.

(3) Licenses shall only be issued for dogs that have been inoculated against rabies as shown by a current rabies inoculation certificate.

(4) Persons with dog(s) not qualifying for a kenneled rate license or other special license as may be established by the Board of County Commissioners, shall license their dog(s) with a standard dog license as set forth in this Chapter.

(5) No license fee shall be required to be paid for any working assistance dog. A license shall be issued for such dog upon filing of an affidavit by the keeper and a certificate of assistance dog training from a recognized assistance dog training organization showing such dog to come within this exemption. The license shall include designation as an "Assistance Dog".

(6) Any dog that has been determined to be dangerous by a Judge or a Hearings Officer shall be properly licensed and vaccinated. The designation of dangerous shall be included in the licensing records of the dog. The Dog Control Officer shall charge an additional fee in addition to the regular licensing fee charged by Klamath County for a license following designation as a dangerous dog. Dangerous dogs must be controlled and confined as outlined in 403.200 of this Chapter. The confinement area is subject to inspection by Dog Control.

(7) If a dangerous dog dies, is sold, transferred, or is permanently removed from Klamath County, the owner shall notify the Dog Control Office in writing within two (2) working days.

(8) Kenneled Rate Licenses.

(a) Dogs kept primarily in a kennel and not allowed to run at large may qualify, upon making the showing required in this Chapter, to be licensed at the kenneled fee rate. A person requesting licensing at the kenneled rate shall establish by affidavit or signed statement that:

(i) if the keeper has five or more kenneled dogs, the keeper has complied with applicable land use laws and ordinances;

(ii) the keeper houses his or her dog(s) primarily in a kennel, as defined in the Application for Kenneled Dog License;

(iii) the keeper has not been convicted of animal abuse and/or neglect under County or state laws for failure to maintain adequate and minimum care standards; and

(iv) the keeper has not been convicted under County or state law for allowing his or her dogs to be at large.

(b) Any keeper that violates 403.412, Adequate Care, or 403.413, Cruelty to Animals, of this Chapter or that has been convicted of animal abuse and/or neglect under state or County law by virtue of the conditions under which dogs are kept in the keeper's kennel shall not be entitled to be licensed at the kenneled rate.

(c) Any keeper convicted of a dog at large violation more than twice, while having dogs licensed at the kenneled rate, shall thereafter not be entitled to license his or her dogs at the kenneled rate.

(d) The dog keeper applying for a kenneled rate license shall upon request grant permission to visit the premises at reasonable times to such County representatives as are necessary to verify that the qualifications set forth in the application are met and to conduct periodical inspections to ensure that adequate care standards are being met. An annual inspection fee may be required for a kenneled rated license.

(e) If County representatives, when verifying the qualifications set forth in the application and conducting periodical inspections, are refused access to the dogs or kennels, the keeper shall automatically be denied the ability to license any dogs at the kenneled rate and any existing kennel rate license will be revoked.

**403.103 License Tag.** The keeper shall keep the license tag fastened to a collar that shall be kept on the dog at all times. A tag may not be placed on a dog, which has not been issued for that dog.

**403.104 Dog Waste.** The keeper of a dog shall be responsible for immediately removing fecal or other visible solid waste of the keeper's dog from property other than the keeper's.

**403.105 Control and Leashes.**

(1) It is a violation of this Chapter to allow a dog to run at large. Once a dog leaves the keeper's property and is on public property or right of way, the dog must be kept under physical control on a leash not exceeding eight (8) feet in length.

(2) The keeper of any dog shall keep, restrain, and maintain it in such a manner as not to endanger, or be a nuisance to other persons or property. Failure of the keeper to so restrain the dog shall constitute a violation of this Chapter.

(3) Excepted from this section are dogs under the supervision of a person for the purpose of dog shows, obedience or agility training or trial, hunting, chasing, or treeing predatory animals or game birds, protecting livestock, or in other related agricultural activities. Though these dogs are exempt from the leash requirement, they are required to be under the keepers' immediate control.

(4) Female dogs in heat shall be restrained by the keeper in such a manner as not to create a nuisance by allowing male dogs access to such female dogs.

**403.106 Tethering.** A chain shall not be used as a collar when tethering a dog. A dog shall not be tethered and left unattended on public property. If a dog is tethered, the tether must be of material and weight that is appropriate for the size of the dog. The tether shall be a minimum of 3 times the length of the dog's body from the tip of the nose to the base of the tail.

**403.107 Lost or Stray Dogs.**

(1) If any dog becomes lost or strays from its home, it shall be the duty of any person finding the dog to notify the Dog Control Officer within two (2) business days of the name and address of the person finding the dog, together with a full description of the dog, and to surrender upon request the same to the Dog Control Officer or county contracted facility. The Dog Control Officer shall keep a record of such notices.

(2) It is a violation of this Chapter for a person to willfully make a false certification in a Stray Dog Declaration that he or she has no knowledge of the keeper of the dog or the location the dog lives.

(3) After a keeper is notified that their dog has been found, it is a violation if the keeper does not pickup their dog or release ownership of their dog and pay all applicable fees.

(4) Violations of this section shall result in a fine of not less than \$100.00 and not more than \$720.00.

#### **403.108 Impoundment.**

(1) Dog Control personnel and police officers are hereby authorized and directed to impound at the designated/County contracted facility any dog that is not controlled, that exhibits dangerous dog behavior, or whose conduct is not in accordance with this Chapter or O.R.S. 609.090. All impounded dogs shall be scanned for microchip identification immediately upon impoundment.

(2) Any dog impounded by a Court or Hearings Officer, that is not dangerous and does not pose a health or safety risk to the public by being released to the keeper, shall be released to the keeper or the keeper's authorized representative upon payment of all fees required and upon receipt of a written order of release from the court or the Hearings Officer. Should the Court or Hearings Officer choose to release to the keeper a dog that is determined to be dangerous, the release shall include specific instructions on confining and containment of the dog to protect public safety.

(3) Refusal of keeper to release dog.

(a) Whenever a person in possession of a dog which has been used in the commission of a violation of this Chapter and which is the subject of a lawful Order of Impoundment refuses to voluntarily release said dog to a Dog Control Officer upon timely and reasonable request, the Dog Control Office shall determine the need to procure the dog's immediate impoundment.

(b) A limited search warrant authorized under this section shall be sought by the Dog Control Office if it is determined that the dog's immediate impoundment is necessary based on one or more of the following factors:

(i) The public's health and safety is at risk by the subject dog remaining in the possession of the keeper.

(ii) The health and welfare of the subject dog is at risk by the dog remaining in the possession of the keeper.

(iii) The keeper has failed to comply with requirements specified in KCC 403.514, Order to Abate.

(c) The Dog Control Office shall request the assistance of the Sheriff to procure and execute the limited search warrant. The Dog Control Office shall prepare the application for the warrant including the affidavit in support thereof. The Dog Control Office shall coordinate with the County Counsel Office to review the affidavit for compliance with all of the provisions of

law. The Dog Control Office shall obtain the warrant in compliance with the procedure and practices authorized under state law for the seizure of property pursuant to a search warrant.

(4) Habitual Offender

(a) Any keeper having been found/pled guilty of allowing a dog to be a habitual offender and subsequently allows the dog to re-offend, may by order of the Court or Hearings Officer, have the dog permanently removed from said keeper.

(b) Any keeper found/pled guilty of allowing a dog to be a habitual offender may, by order of the Court or Hearings Officer, lose the right to own any dog(s) while living in Klamath County. And if so ordered, law enforcement personnel may make inquires or inspections and remove from the premises any dog being found, kept, or owned by said person(s). Any county in Oregon may request a copy of that court order and continue enforcement in their county.

**403.109 Time and Notice.** A dog impounded for running at large shall be held in accordance with O.R.S. 609.090 and 403.110 of this Chapter. The day of impoundment is excluded from the computation of time and the last day is included unless it falls on a Saturday or legal holiday. If the dog is licensed as a dangerous dog or if the dog is owned by a keeper that has been assigned, found/pled guilty of being a Habitual Offender, the dog shall not be released without a court order or an order from a Hearings Officer.

**403.110 Redemption.**

(1) Any impounded dog that is not dangerous or owned by a habitual offender shall be released to the keeper or the keeper's authorized representative upon payment of impoundment, care, rabies, microchip, and license fees made payable to the Klamath County Dog Control Office, unless there is a court order to the contrary. If at the discretion of the appointed Dog Control Office, the dog is determined to be a danger to the public's safety, the dog shall be held until such time and if the Hearings Officer or a Court determines otherwise.

(2) Upon the third impound of the same dog running at large, in addition to paying the fees, care and fines, the dog shall be spayed or neutered at the keeper's expense, prior to release. The microchip, from the first impound, shall be used for positive identification of the dog. The keeper shall be assigned Habitual Offender status by the Dog Control Office and the keeper shall be required to sign a statement acknowledging and accepting the assignment of Habitual Offender prior to release of the dog.

(3) A dog held for the prescribed period and not redeemed by its keeper and which is neither dangerous or of questionable

temperament, nor in a dangerous condition of health will be released for disposition to the county contracted facility.

(4) Any dog impounded for running at large, that is owned by a keeper that has been assigned or found/pled guilty of being a Habitual Offender, is considered to be a public safety hazard and shall remain impounded awaiting determination from the Court or Hearings Officer as to the confinement requirements or the disposition of the dog. The keeper shall be responsible for all fines, fees, costs and expenses incurred by the County while the dog is impounded. A minimum of 10 days of care at the current boarding rate at the County contracted facility must be paid in advance by the keeper to Klamath County Dog Control. When the actual number of days of care is determined, the cost will be calculated and the keeper shall be required to pay all additional amounts to the County. Releasing ownership of the dog does not eliminate the keeper's responsibility to pay fines, fees, and care costs. Should the care be less than 10 days, the keeper may receive a partial refund from the County after deducting any fines or fees still owing.

#### **403.200 Dangerous Dog.**

(1) In addition to the requirements of this Chapter, dangerous dogs must be physically restrained by their keeper to ensure public safety. The keeper must prevent the dog from interfering with the public's legal access to the owner's property or from reaching any public areas, including but not limited to sidewalks, roads, or adjoining property. Failure of the keeper to so restrain and control the dog shall constitute a violation of this Chapter, which will result in the impoundment of the dog, citation, and may result in the loss of ownership of the dog.

(2) A Dog Control Officer, a law enforcement officer, or a private citizen has the right to use reasonable force to protect themselves, another person, or an animal from a dangerous dog running at large or that trespasses on the property of another if the dog is exhibiting dangerous behaviors and if serious physical injury or death to a person or an animal is imminent.

(3) A dog that has been determined to be dangerous by a Hearings Officer or the Court shall at all times be kept indoors, or in a secure enclosure or kennel from which the dog cannot escape and into which children cannot trespass. Warning signs notifying the public that a dangerous dog is on the premises must be posted in a conspicuous place visible from the public sidewalk or road adjoining the location the dog is kept or if there is no such public sidewalk or road then at the boundary lines of the property where access is provided. A dangerous dog may be off the keeper's premises only if it is restrained by a substantial leash

not longer than four (4) feet in length, is humanely muzzled, and if it is under the control of a responsible adult.

(4) Any secure enclosure or kennel used to confine a dangerous dog must meet the following requirements and are subject to inspection by a Dog Control Officer. Should the enclosure fail to meet the requirements of this section, the dangerous dog shall immediately be impounded by Dog Control:

(a) All outdoor and indoor facilities shall be constructed and maintained to allow sufficient space for the dog to make normal postural and social adjustments with freedom of movement and space for exercise.

(b) All pens must have a floor constructed of concrete or shall have a heavy buried wire barrier sufficient to prevent escape by digging. All pens shall be of sufficient height or be covered with sufficient materials to prevent escape.

(c) 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.

(5) The requirements of this section shall apply to any person who is transferred ownership or who keeps a dangerous dog.

(6) Following a violation of this section the Hearings Officer or the Court may order relief that it deems appropriate for the protection of the public, including that the dangerous dog be destroyed.

#### **403.300 Regulation and licensing of Wolf Hybrids.**

(1) A wolf hybrid is considered a specialty animal in the Klamath County Land Use Development Code. A Keeper of a wolf hybrid must comply with applicable land use laws and ordinances.

(2) Except as otherwise provided in this Section, all other regulations contained within this Chapter apply to wolf hybrids in the same manner as they apply to dogs and/or other animals.

(3) Animals declared by a Keeper to be a wolf hybrid shall license their wolf hybrid, under a special wolf hybrid license, which shall include an electronic microchip implant. The microchip number shall be kept on file with Dog Control, registered with a national registry by the keeper, and shall be used as a means of permanent identification. Licensing shall apply to all wolf hybrids age six weeks or more and shall be renewed annually, subject to inspection of the containment area. Multi-year licensing and kennel rate licensing for wolf hybrids is not available. Failure to license shall result in the immediate confiscation of the wolf hybrid.

(4) It shall be presumed, through a newspaper advertisement or flyer indicating that a Keeper is selling or giving away wolf

hybrids, that the Keeper is declaring they own a wolf hybrid and shall comply with this Chapter and other applicable laws and regulations.

(5) Rabies vaccinations shall be at the discretion of the keeper and veterinarian until a rabies vaccine labeled by the United States Department of Agriculture for use in wolf hybrids becomes available, at which time it will become mandatory to give rabies vaccinations to wolf hybrids in Klamath County.

(6) Keepers shall ensure that their wolf hybrid shall not become a public safety or public nuisance problem.

(7) A wolf hybrid shall be confined in a secure enclosure or kennel.

(8) Chaining or tethering is not an acceptable method of confinement.

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

(a) A wolf hybrid must be kept under control on a lead not to exceed 6 feet in length;

(b) A wolf hybrid must not be left unattended or tethered.

(10) Enclosures or kennels must securely confine the hybrid sufficiently to not allow escape and must be located as to not interfere with the public's legal access to the keeper's property.

(11) Any secure enclosure or kennel used to confine a wolf hybrid must meet the following requirements:

(a) All outdoor and indoor facilities shall be constructed and maintained to allow sufficient space for each animal to make normal postural and social adjustments with freedom of movement and space for exercise.

(b) All pens must have a floor constructed of concrete or shall have a heavy buried wire barrier sufficient to prevent escape by digging. All pens shall be of sufficient height or be covered with sufficient materials to prevent escape.

(c) 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.

(12) Penalties for escape wolf hybrids:

(a) First Offense - \$100.00 fine in addition to impound fees and other applicable licenses and fees.

(b) Second Offense - confiscation and euthanasia of the hybrid.

(13) Bite of Humans. A wolf hybrid, which bites a human, will be dealt with under rules of the Oregon Health Division Acute

and Communicable Diseases Program and as recommended by the Compendium of Animal Rabies Control. Wolf hybrids are currently classified as wild animals and treated as such.

(14) Period of responsibility for licensed wolf hybrid.

(a) The keeper shall maintain ownership and control for the natural life of the wolf hybrid; or

(b) Notify Klamath County Dog Control of any intended transfer of ownership so that license can be transferred to the new owner; or

(c) Dispose of the wolf hybrid by euthanasia.

(d) A wolf hybrid may not be abandoned or released into the wild.

### **ISSUES INVOLVING DOGS AND OTHER ANIMALS**

**403.400 Enforcement of Animal Issues.** If a person violates sections 403.410, 403.411, 403.412, 403.413 and/or 403.414 a Dog Control Officer, Code Enforcement Officer, the Sheriff or law enforcement officer may issue a citation or other written notice upon the keeper. The notice shall contain detailed instructions on how the keeper can correct the violation. Steps to correct the violation must be taken immediately and the issuing agency shall return within 2 working days to ensure that the violation has been corrected.

**403.410 Poisoning of Domestic Animals.** No person shall knowingly with intent to harm place or cause to be placed any toxic substance where the same is liable to be eaten by any domestic animal.

**403.411 Animal Abandonment.** It is a violation of this Chapter to leave a domesticated animal at a location without providing for the animal's continued care. If there is sufficient evidence, animal abandonment is a violation of ORS 167.340 and is a Class B Misdemeanor.

**403.412 Adequate Care.** The keeper of any animal shall provide adequate care, adequate food, adequate water, adequate shelter, adequate sanitary conditions, and shall keep the animal in a state of good health.

**403.413 Cruelty to Animals.** No person shall intentionally or recklessly:

(1) Subject any animal to abusive or\_cruel treatment;

(2) Subject any animal to inadequate care or\_neglect;

(3) Kill, without legal privilege, any animal under the custody or control of another.

**403.414 Tampering with Law Enforcement Animal.** No person shall torture, torment, tease, beat, kick, strike, choke, cut, stab, stone, shoot, mutilate, injure, disable, kill, or tamper with any law enforcement animal while it is in the custody of a law enforcement officer or while it is being caged, kenneled, transported, exhibited, exercised, or used in discharging or attempting to discharge any lawful duty or function or power of office by any law enforcement officer or his/her representative for any law enforcement agency. In accordance with ORS 167.339, it is a crime to tamper with law enforcement animals.

#### **ENFORCEMENT PROCEDURES**

#### **403.510 Violations; Notice of Violation; Requirements.**

(1) Except as provided in KCC 403.520 or violations classified as a crime, all enforcement actions under this Chapter shall be brought before a Hearings Officer or the Justice Court. The Klamath County Board of Commissioners may adopt a schedule of presumptive penalties for violations of this Chapter.

(2) Hearings Officer Designated. The Klamath County Board of Commissioners may designate one or more Hearings Officers to adjudicate violations under this Chapter. The Hearings Officer shall be a member of the Oregon State Bar.

(3) Initiating Enforcement Action. Enforcement of a violation of this Chapter may be instituted by the Dog Control Officer or his authorized designee, a duly authorized peace officer or a private citizen. The enforcement action shall be initiated by serving the alleged violator with a Notice of Violation. No enforcement action initiated by a private citizen may be brought without prior review, investigation and approval of the Dog Control Officer. Upon receipt of a complaint by a private citizen, the complaint is sufficient cause for the County to investigate whether the keeper is indeed in violation of this Chapter.

(4) Notice of Violation; Form.

(a) The Notice of Violation shall be an original and three copies and contain wording as designated by the Klamath County Counsel.

(b) The Notice of Violation shall be a multi-part form consisting of at least three parts. Additional parts may be inserted for administrative use. The required parts are:

(i) Notice of Violation;

- (ii) Dog Control's record of civil violation; and
- (iii) Summons.

(c) The Notice of Violation shall contain the following information or blanks in which such information shall be entered:

- (i) The civil violation number;
- (ii) Name of the person alleged to have committed the violation;
- (iii) Section(s) of the code allegedly violated;
- (iv) Brief description of the alleged civil violation in such a manner as can be readily understood by a person making a reasonable effort to investigate or make a determination;
- (v) The date, time and place at which the violation allegedly occurred;
- (vi) The date on which the Notice of Violation was issued;
- (vii) The minimum requirements for appearance.
- (viii) The amount of the maximum monetary penalty.

(d) The Notice of Violation shall contain a form of certificate by the complainant to the effect that he or she certifies, under oath and upon penalties of law, that he or she has reasonable grounds to believe, and does believe, that the person cited committed a violation contrary to this Chapter. The certification, if made by the Dog Control Officer or law enforcement officer, need not be made under oath.

(e) The Notice of Violation shall state that failure to follow the minimum requirements for appearance constitutes admission that the allegations are true and that the person consents to whatever penalty the Hearings Officer or the Court imposes, notwithstanding payment of the presumptive penalty. This may include, but is not limited to, a monetary judgment entered against the person up to the maximum amount of civil penalties, restitution and other costs allowed by this Chapter for the violation. It shall also state that failure to appear at any scheduled hearing on the violation may result in a default determination and judgment.

(f) Any error in the Notice of Violation or in entering information into the blanks in the form may be corrected at the hearing or prior to the hearing with notice being given to the person cited. The notice shall be set aside by the Hearings Officer or the Court only upon a request by the person cited made before the close of the hearing and upon a determination that the error is prejudicial to the person's defense. Failure to make a request to set aside the Notice of Violation before the conclusion of the hearing shall constitute a waiver and will be an absolute bar to raising this issue at the hearing, or subsequent appeal.

Nothing prohibits the Hearings Officer or the Court from amending the Notice of Violation in his or her discretion.

(g) The notice shall contain a provision informing the person alleged to have committed the civil violation that, if the person is going to be represented by counsel, he or she must provide notice to the County Counsel at least five days prior to the hearing, or an automatic continuance of at least five days will be granted.

**403.511 Service of Notice of Violation.**

(1) A Notice of Violation initiated by a private citizen shall be provided to the Dog Control Office for review, investigation, approval and service.

(2) The Dog Control Office shall serve the notice by personal service on the person alleged to have committed the violation, or by certified mail, return receipt requested, to the person's last known address, together with a first-class mailing of a copy. There shall be a rebuttable presumption that any notice sent by mail was served on the third business day following deposit in the mail.

**403.512 Notice of Violation; Minimum Requirements for Appearance.**

(1) Any person who has received a Notice of Violation shall choose and follow at least one of the options listed on the back of the Notice of Violation form.

(2) Failure to meet the minimum requirements for appearance before the time and date specified in the summons shall be deemed a waiver, confession of judgment and consent to imposition of a civil penalty as determined by the Hearings Officer or the Court.

**403.513 Fixing Hearing Dates; Notice of Defendant; Failure to Appear; Hearing on Violation.**

(1) Hearings may be rescheduled upon timely receipt of a request and if the Hearings Officer or Court concludes that it will not prejudice the interests of either the person alleged to have committed the violation or the County.

(2) A party may be represented by counsel at his or her own expense and must provide notice to County Counsel at least 5 days prior to the hearing. Failure to provide the County with at least 5 days notice that counsel will appear shall entitle the County to an automatic set-over of at least 5 days unless waived by the County.

(3) Justice Court rules and procedures will be followed when the person cited is cited into Justice Court.

(4) If the person cited is cited to appear before the Hearings Officer, the following procedures shall be followed:

(a) All testimony shall be under oath. The Hearings Officer has the authority to administer oaths, issue subpoenas if permitted by law, and take the testimony of witnesses, and will be responsible for ensuring that a tape-recording of the proceeding is maintained. The Hearings Officer is authorized to adopt in writing such rules of procedure as are reasonably necessary for the conduct of the hearings. These rules shall be available to all persons in attendance.

(b) The Dog Control Officer or County Counsel shall proceed first and have the burden of demonstrating that the person cited committed the violation by a preponderance of the evidence.

(c) The defendant shall be allowed to present argument and relevant testimony, witnesses, and evidence at the hearing. The Hearings Officer may permit rebuttal by the Dog Control Officer or County Counsel.

(d) The rules of evidence do not apply, but the Hearings Officer may discount or exclude any evidence that the Hearings Officer deems to be irrelevant, immaterial, cumulative, or not reasonably credible.

(e) After consideration of the arguments and evidence, the Hearings Officer shall determine whether the violation alleged has been proven by a preponderance of the evidence.

(f) If the violation has been established, or an answer admitting the violation has been received, or the person has otherwise failed to respond or appear, the Hearings Officer shall order the person cited to pay a civil penalty of not more than \$500 per violation, and may impose any additional monetary obligations, conditions or restrictions permitted by this Chapter. The Hearings Officer shall have the discretion to reduce the presumptive penalty based on mitigating circumstances.

(g) The Hearings Officer shall issue a written decision containing findings of fact and conclusions addressing the allegations contained in the Notice of Violation.

(h) If the person accused of committing a violation fails to appear at a hearing for good cause, the person may file a petition to void any penalty and reset the hearing with the Hearings Officer, setting forth the reasons for the failure to appear. The person shall at the same time serve the Office of County Counsel with a copy of the petition by personal delivery or first-class mail. If the Hearings Officer finds that good cause exists for the failure, the Hearings Officer shall suspend imposition of any penalty and reschedule the hearing. Good cause means circumstances that would prevent a reasonable person from appearing, such as the death, hospitalization or serious illness of the person or an immediate family member. The Hearings Officer may condition suspension of the penalty on the person agreeing to take reasonable interim steps to address the alleged violation as

required by the Hearings Officer. Unless the County stipulates otherwise, a petition must be filed no later than 5 days after the date of the hearing at which the person failed to appear.

(5) For purposes of this Chapter, in addition to a monetary judgment, the term "civil penalties" includes any additional conditions and restrictions imposed by the Hearings Officer or the Court, and reasonably calculated to remedy the violation including, but not limited to:

(a) Physical alterations to property or training.

(b) Requiring payment to the County of any reasonable expenses incurred in dealing with the violation, other than the violation process. Requiring the person to make restitution to any person who has suffered economic loss in connection with the violation.

(c) Requiring that the violation or condition which is the subject of the civil violation be abated, corrected, removed or otherwise brought into compliance as directed by the Hearings Officer or the Court.

(d) If a person is found to have committed a violation, and the Hearings Officer or the Court has ordered conditions or restrictions, the person may be cited for a new violation for failing to comply with the conditions or restrictions.

(e) The Hearings Officer or the Court may schedule a compliance hearing to determine if the person is failing to comply with the requirements imposed. If the Hearings Officer or the Court determines upon a preponderance of the evidence that the person has failed to follow the requirements imposed, the Hearings Officer or the Court may impose additional civil penalties, suspended civil penalties, modify or add additional conditions or restrictions, or order other steps designed to remedy the violation.

#### **403.514 Order to Abate.**

(1) If, the time given to comply with an Order to Abate the nuisance has expired without abatement, the Hearings Officer or the Court may summarily abate the nuisance by ordering impoundment of the dog in accordance with KCC 403.108 and assess the cost of such abatement against the keeper of the dog, in addition to the penalties for the violation.

(2) Any party served a written order to abate a nuisance, may appeal the order as provided in KCC 403.516 (1). The appeal under this section may be consolidated with any underlying violation still pending and eligible for appeal under this Chapter. Provided, any challenge relating to the validity of the order to abate the nuisance, shall be joined in one state court proceeding, and there shall be no further administrative review or appeal except as directed by the Court.

(3) Any dog impounded pursuant to the order to abate shall not be released until such time as the Hearings Officer or a Court of competent jurisdiction orders such release.

**403.515 Stay of Enforcement; Exceptions.**

(1) Enforcement of any Notice of Violation shall be stayed during the pendency of an appeal, except:

(a) Restrictions or conditions placed on the dog's keeper by the Hearings Officer or the Court or

(b) The impoundment of a dog as required under this Chapter or because it was necessary for the protection of the dog.

(2) In any case wherein the subject dog has been impounded and is to be euthanized pursuant to a Hearings Officer's or Court's decision, a party seeking to appeal the decision may obtain a stay of the destruction of the dog pending the resolution of the appeal. The party shall submit a written notice to the Dog Control Office and the County Counsel's Office, within 15 days of the date of the decision of the party's intent to begin the appeal process. The written notice shall be submitted with a deposit as required under KCC 403.517.

**403.516 Appeals.**

(1) Appeal of the Justice Court's Decision. The sole method for appeal of the Court's decision is in accordance with O.R.S. Chapter 53. If the appeal is not filed within 30 days of the date of the Court's decision, the decision of the Court shall be final.

(2) Appeal of Hearings Officer's Decision. The sole method for appeal of a Hearings Officer's decision is by filing a writ of review in accordance with O.R.S. Chapter 34. If a writ of review is not filed within 60 days of the date of the decision, the decision of the Hearings Officer shall be final.

(3) Wrongful Impoundment. Any keeper who believes his dog to have been wrongfully impounded may, within the impoundment period, appeal to the Circuit Court of Oregon for Klamath County which shall have full power to determine whether the dog has been wrongfully impounded; and, if so, shall determine whether it shall be returned to the keeper and under what terms.

**403.517 Impoundment Pending Appeal.**

(1) In any appeal wherein the subject dog has been impounded pending appeal of the Hearings Officer's or the Court's decision the keeper of the dog shall be required to post a deposit with the Dog Control Office, in an amount set by the Board of County Commissioners.

(2) If a dog not previously impounded under this Chapter is subsequently ordered to be impounded by a Hearings Officer or the Court and the keeper appeals the decision, the keeper of the dog

shall be required to post a deposit with the Dog Control Office at the time the notice of intent to file an appeal is submitted, to apply towards the expense of sheltering the dog during the pendency of the appeal proceeding. Unless ordered by the Court, the dog may be killed during the appeal period if the Keeper fails to maintain advance payment of the cost of the dog impounded.

(3) In either situation described above, if the finding of a violation is upheld on appeal, the dog's keeper shall be liable for the cost of the dog's impoundment and shall pay all fees incurred for sheltering and caring for the dog. If the decision is reversed on appeal, the deposit shall be refunded.

**403.520 Second Violation of Chasing, Menacing, or Biting a Person; Citation and Summons; Service; Failure to Appear.** In the event there is an allegation of chasing, menacing or biting subsequent to an initial determination of such a violation, it will be cited under O.R.S. 609.990(3) and not this Chapter. In accordance with O.R.S. 609.990(3), it is a Class C Misdemeanor if a keeper's dog is a public nuisance because the dog chases, menaces or bites a person on premises other than its keeper's and the dog keeper has previously been convicted of a violation or crime for any dog chasing, menacing or biting a person on premises other than its keeper or on the keepers premises where legal public access is permitted.

**403.530 Other Enforcement Procedures.** Enforcement under O.R.S. Chapter 609 shall not prevent the filing of a complaint in any other lawful form alleging violation of this Chapter.

**403.540 Penalties; Civil Penalties; Collection of Penalties; Administrative Fee.**

(1) Any person who violates any of the provisions of this Chapter is guilty of a violation, and upon determination thereof is punishable for a first offense by a fine of not less than \$50.00 nor more than \$500.00; for a second offense of not less than \$100.00 nor more than \$500.00; and \$500.00 for any additional offense.

(2) For the first violation of menacing or dangerous dog behavior the maximum fine shall be no more than \$500.00. The keeper must take steps to control the dangerous dog as defined in KCC 403.200 and must also manage the dog's behavior to ensure public safety. The Hearings Officer or the Court may require basic obedience training and behavior management classes for dangerous dogs.

(3) Each day a person shall be in violation of this Chapter shall be deemed a separate offense.

(4) Any person who, in connection with the issuance of a Notice of Violation, citation or the filing of a complaint for a violation of this Chapter or rules or regulations adopted pursuant thereto, willfully certifies falsely to the matters set forth therein is punishable by a fine of not more than \$500 for a non-continuing offense.

(5) Upon conviction of any person for a violation of failure to appear without due and good cause, he shall be punished by a fine in addition to the fine and court costs of the violation for which he failed to appear; and such additional fine shall not be less than \$1,000.

(6) The provisions of this Section are in addition to and not in lieu of other procedures and remedies provided by this Chapter or state law.

(7) The penalties in this Section are not in lieu of civil proceedings or criminal remedies otherwise provided by law.

(8) In addition to any penalty imposed as provided by KCC 403.540 (1), a Hearings Officer or court may order the impoundment and destruction of any dog found to be vicious or a nuisance.

(9) A violation under this Chapter shall be subject to a civil penalty of up to \$500 per day the violation is found to have occurred, plus costs and restitution if awarded.

(10) Imposition of a monetary penalty, including fees and restitution, shall be a civil judgment enforceable in any manner permitted by law and may be placed as a lien in the Klamath County Clerk's Lien Record and may be turned over to a private collections company for collection.

(11) Failure to comply with conditions imposed in the time specified hereby is deemed a public nuisance and may be abated as provide in KCC 403.514.

#### **ESTABLISHMENT OF FEES AND SEVERABILITY**

**403.600 Disposition of Penalties for Violations.** All penalties imposed for violations of this Chapter shall be remitted to the Klamath County Treasurer for deposit into a designated Dog Control fund. Surplus funds may be kept in this fund and used for improvements to the department, pet overpopulation control programs and education, removing nuisance animals, caring for animals involved in court cases within Klamath County, helping with public health issues involving animals, and other animal related areas as determined by the Board of County Commissioners.

**403.610 Fees.** The Board of County Commissioners shall, in conjunction with the Dog Control Officer of Klamath County,

establish by resolution any license, registration, impoundment, hearing penalties, or other applicable fees regulated under this Chapter.

**403.700 Severability.** If any section, subsection, clause, phrase or portion of this Chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Chapter.

