

ORDINANCE NO. 1710

AN ORDINANCE OF THE CITY OF OAK HARBOR AMENDING TITLE 7 OF THE OAK HARBOR MUNICIPAL CODE ENTITLED "ANIMALS"

THE CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

**Section One.** Oak Harbor Municipal Code Chapter 7.04 entitled "Definitions" last amended by Ordinance 410 (1974), Ordinance 918 (1992) and Ordinance 1478 (2006) is hereby amended to read as follows:

**Chapter 7.04  
DEFINITIONS**

**Sections:**

7.04.010	Generally.
7.04.015	Abandoned.
7.04.020	Animal.
7.04.030	Animal control officer.
7.04.040	Animal control authority.
7.04.045	Necessary food.
7.04.050	Owner.
7.04.060	Pet.
7.04.070	Public nuisance.
7.07.080	Restraint.
7.04.085	Running at large.
7.04.090	Veterinarian.
7.04.110	Wild animal.

**7.04.010 Generally.** As used in this title, the following terms shall have the meaning set out in this chapter.

**7.04.015 Abandoned.** "Abandoned" means placing an animal in the custody of a veterinarian, boarding kennel owners, or any person for treatment, board, or care, either for an unspecified time and failing to remove the animal after fifteen (15) days' notice, or for a specified time and failing to remove the animal at the end of the specified period.

**7.04.020 Animal.** "Animal" includes, but is not limited to, any live, vertebrate creature, domestic or wild.

**7.04.030 Animal control officer.** "Animal control officer" means any person or agency designated by the city as a law enforcement officer or quasi-law enforcement officer, who is authorized to implement the provisions of this title.

**7.04.040 Animal control authority.** “Animal control authority” means the department of the city charged with the responsibility of administering the provisions of this chapter, or the department and any other agency to which this responsibility is contractually delegated and which is thereby charged with the duty of enforcing the animal control laws of the city and/or with the shelter and welfare of animals.

**7.04.045 Necessary food.** “Necessary food” means the provision at suitable intervals of wholesome foodstuff suitable for the animal’s age and species and sufficient to provide a reasonable level of nutrition for the animal.

**7.04.050 Owner.** “Owner” means any person, partnership, or corporation owning, keeping, or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more.

**7.04.060 Pet.** “Pet” means any animal kept for pleasure rather than utility.

**7.04.070 Public nuisance.** “Public nuisance” means any animal or animals which:

- (1) Molests passersby or passing vehicles;
- (2) Attacks other animals;
- (3) Is repeatedly running at large;
- (4) Damages private or public property;
- (5) Barks, whines or howls in an excessive, continuous or untimely fashion;
- (6) Any dog depositing fecal matter upon any private or public property without the same being removed immediately by the owner or persons having control of the dog;
- (7) The harboring, keeping and maintaining of a potentially dangerous dog or dangerous dog contrary to Chapter 7.32 OHMC.

**7.04.080 Restraint.** “Restraint” means any animal secured by a leash or lead, or under the control of a responsible person and obedient to the person’s command, or located on the real property limits of its owner or keeper. All dogs who are within the limits of the city parks property, other than the tidelands area, must be secured by a leash or lead at all times.

**7.04.085 Running at large.** “Running at large” means to be off the premises of the owner and not under the immediate control of the owner or other competent person authorized by the owner, by means of a leash, cord or chain, except when in or on any vehicle and securely confined to such vehicle.

**7.04.090 Veterinarian.** “Veterinarian” means a duly licensed person who medically treats domestic animals and pets.

**7.04.110 Wild animal.** "Wild animal" means any warmblooded animal which can normally be found in the wild state.

**Section Two.** Oak Harbor Municipal Code Chapter 7.08 entitled "Care and Control Generally" last amended by Ordinance 401 (1974), Ordinance 918 (1992) and Ordinance 1478 (2006) is hereby amended to read as follows:

**Chapter 7.08  
CARE AND CONTROL GENERALLY**

**Sections:**

- 7.08.010 Care required.
- 7.08.020 Restraint required.
- 7.08.025 Tethering dogs.
- 7.08.030 Public nuisance prevention.
- 7.08.050 Prohibition of the sale or give-away of animals in front of local businesses or stores.
- 7.08.060 Transporting or confining in unsafe manner – Penalty.
- 7.08.070 Disposition of abandoned animal by person having custody.

**7.08.010 Care required.** The owner, as defined in OHMC 7.04.050, shall provide his animal with necessary food and adequate water and proper shelter.

**7.08.020 Restraint required.** All animals shall be kept under restraint.

**7.08.025 Tethering dogs.**

- (1) Any dog tethered on the property of the owner or custodian shall be restrained by a means of a chain, leash, or rope that is:
  - (a) A minimum of eight (8) feet long;
  - (b) Attached at the anchor point by means of a swivel in a manner that prevents twisting or entanglement;
  - (c) Attached to the dog by means of a well-fitting harness or collar that does not choke or pinch when tensioned;
  - (d) Not more than one-eighth (1/8) the weight of the dog.
- (2) No dog shall be tethered outside between the hours of 9:00 pm and 7:00 am.
- (3) A dog shall be tethered in a manner that allows continuous access to:
  - (a) Adequate clean, drinkable water;

- (b) Shelter from extremes of weather and temperature.
- (4) Dogs shall not be tethered in an area where there are obstacles or land features that present a risk of injury or strangulation.

**7.08.030 Public nuisance prevention.** An owner shall at all times exercise proper care and control of his animals so that they do not become a public nuisance as defined in OHMC 7.04.070.

**7.08.050 Prohibition of the sale or give-away of animals in front of local businesses or stores.** It is unlawful for any business or store to allow any person(s) to sell or give away any animals in front of any business or store within the city or Oak Harbor. It shall be unlawful for any person(s) to give away or sell any animals in front of any business, store, or on the side of any public roadway within the city of Oak Harbor.

**7.08.060 Transporting or confining in unsafe manner – Penalty.** Any person who willfully transports or confines or tethers or causes to be transported or confined or tethered any domestic animal or animals in a manner, posture or confinement that will jeopardize the safety of the animal or the public shall be guilty of a misdemeanor punishable by a maximum of ninety (90) days in jail and/or a One Thousand Dollar (\$1,000) fine.

**7.08.070 Disposition of abandoned animal by person having custody.** Any person having in his care, custody or control any abandoned animal as defined in OHMC 7.04.015 and within the city of Oak Harbor may deliver such animal to the animal control authority following proper notification of the owner as provided in RCW 16.52.010.

**Section Three.** Chapter 7.12 of the Oak Harbor Municipal Code entitled "Dog and Cat Licenses" last amended by Ordinance 401 (1974), Ordinance 428 (1976), Ordinance 639 (1983), Ordinance 918 (1992), Ordinance 1410 (2005) and Ordinance 1478 (2006) is hereby amended to read as follows:

### **Chapter 7.12 DOG AND CAT LICENSES**

**Sections:**

- 7.12.010 Required.
- 7.12.020 Application requirements and exceptions.
- 7.12.030 Fees – Schedule.
- 7.12.035 Fees – Procedure for senior citizens.
- 7.12.040 When purchased – Late fee – Term.
- 7.12.050 Tag issuance.
- 7.12.060 Failure to obtain license – Penalty.
- 7.12.070 Record of licenses issued.
- 7.12.080 Duplicate tag – Fee – License not transferable.

**7.12.010 Required.** Any person owning, keeping, harboring or having custody of any cat or dog over four months of age within the city limits of Oak Harbor must obtain a license as provided in this chapter. Nonresidents bringing to the city his/her dog or cat for less than sixty (60) days are not required to obtain a license. Nor shall it be required to obtain a license for seeing-eye dogs or governmental police dogs.

**7.12.020 Application requirements and exceptions.** Applications for licenses shall be made to the city clerk which shall include the following requirements:

- (1) Name, address of applicant and description of animal;
- (2) A current rabies certificate issued by a licensed veterinarian shall be shown for dogs or cats over the age of six (6) months;
- (3) A certificate of spay or neuter by a licensed veterinarian shall be shown (if applicable).

**7.12.030 Fees – Schedule.** Dog and cat licenses may be purchased from the city or authorized designee upon the payment of a license fee as listed in the Master Fee Schedule adopted by resolution of the city council.

**7.12.035 Fees – Procedure for senior citizens.** If a person is sixty-five (65) years of age or over and certifies to the clerk of the city under oath that he or she is over this age and is the owner of the cat or dog to be licensed, his/her license fee will be fifty percent (50%) of the fees stated in OHMC 7.12.030. This provision shall be effective as to those licenses issued subsequent to January 1, 1976.

**7.12.040 When purchased – Late fee – Term.** All current resident cat and dog owners shall purchase licenses from January 1st through February 28<sup>th</sup>; after which date a late fee will be assessed per the Master Fee Schedule adopted by resolution of the city council. New residents shall purchase their cat or dog license(s) after establishing residency in the City of Oak Harbor; no more than sixty (60) days. The licensing period will be from January 1st through December 31st of each year.

**7.12.050 Tag issuance.** The city clerk and/or participating veterinarians shall issue a durable tag or identification, stamped or printed with an identifying number and year of issuance, designed so that the tag may be fastened to the animal's collar or harness. The tag shall be worn by the animal at all times when off the premises of the owner.

**7.12.060 Failure to obtain license – Penalty.** Owners who fail to obtain a license for their animal as required within the time period specified in OHMC 7.12.040 will be violating the provisions of this title and will be subject to a class 2 infraction as defined in OHMC 1.28.

**7.12.070 Record of licenses issued.** The licensing authority and animal control officer shall maintain a record of all animal licenses issued and shall make this record available to the public during normal office hours.

**7.12.080 Duplicate tag – Fee – License not transferable.** A duplicate license tag may be obtained from the finance department cashier upon payment of a replacement fee per the Master Fee Schedule adopted by resolution of the city council. No person or owner may use any license for any animal other than the animal for which it was issued.

**Section Four.** Oak Harbor Municipal Code Chapter 7.16 entitled "Rabies Control" last amended by Ordinance 437 (1976), Ordinance 639 (1983) and Ordinance 918 (1992) is hereby amended to read as follows:

## **Chapter 7.16 RABIES CONTROL**

**Sections:**

- 7.16.010 Vaccination required.
- 7.16.015 Failure to vaccinate – Penalty.
- 7.16.020 Bringing dogs into city – Rabies certificate required.
- 7.16.030 Issuance of certificate of rabies immunization.
- 7.16.040 Animals biting person – Confinement or quarantine.
- 7.16.050 Animal suspected of being rabid – Confinement.
- 7.16.060 Releasing animal before expiration of quarantine period prohibited.

**7.16.010 Vaccination required.** It is unlawful for any person to own or harbor a dog or cat over the age of six months without a valid rabies vaccination.

**7.16.015 Failure to vaccinate – Penalty.** Owners who fail to obtain a license for their animal as required within the time period specified in OHMC 7.12.010 will be violating the provisions of this title and will be subject to a class 2 infraction as defined in OHMC 1.28.

**7.16.020 Bringing dogs into city – Rabies certificate required.** Persons bringing dogs or cats into the city shall have readily available, as proof of vaccination, a current valid rabies certificate issued by a licensed veterinarian. Animals which do not have proof of current rabies shot shall be vaccinated immediately at the expense of the owner.

**7.16.030 Issuance of certificate of rabies immunization.** Any veterinarian administering rabies vaccinations shall issue the owner a certificate of rabies immunization on all animals immunized.

**7.16.040 Animals biting person – Confinement or quarantine.** Any animal which bites a person shall be confined or quarantined on the premises of its owner as directed by the animal control officer, police officer or by a veterinarian.

**7.16.050 Animal suspected of being rabid – Confinement.** If an animal is suspected of being rabid, the animal control officer, a police officer or a veterinarian may order the animal surrendered to the pound or placed in a veterinary hospital and such confinement shall be at the owner's expense. It is unlawful to violate the orders of the persons designated in this section to so confine an animal.

**7.16.060 Releasing animal before expiration of quarantine period prohibited.** No owner or any person shall knowingly allow any animal confined as set forth in OHMC 7.16.040 or 7.16.050 to escape, nor shall he sell, nor give the animal or otherwise dispose of the animal before the expiration of the quarantine period.

**Section Five.** Oak Harbor Municipal Code Chapter 7.20 entitled "Impoundment" last amended by Ordinance 401 (1974), Ordinance 639 (1983) and Ordinance 918 (1992) is hereby amended to read as follows:

## **Chapter 7.20 IMPOUNDMENT**

**Sections:**

- 7.20.010 Animals subject to impoundment.
- 7.20.015 A ledger of all impounded animals.
- 7.20.020 Dogs and cats – Minimum impoundment period.
- 7.20.030 Notification of owner – Redemption fee.
- 7.20.040 Unclaimed animals – Sale or destruction.
- 7.20.045 Altering of all sold or given-away animals.
- 7.20.050 Animal found at large - Penalty.
- 7.20.060 Hindering officers unlawful.
- 7.20.090 Immobilizing gun use authorized.
- 7.20.100 Maximum dogs and cats per residence.

**7.20.010 Animals subject to impoundment.** If any animal is not licensed or is not restrained, or is a public nuisance as defined in OHMC 7.04.070, such animal may be taken by the animal control officer or by a police officer and impounded in the animal shelter and there be confined.

**7.20.015 A ledger of all impounded animals.** A ledger of all impounded animals shall be kept by the animal control officer. All impounded animals shall be sequentially numbered, described by animal type, sex, breed, altered or unaltered, and any distinguishing features of the animal. They shall be entered into this ledger immediately upon their impoundment. Final disposition of the impounded animal and all spaying and neutering through the Voluntary Veterinary Program shall also be recorded in this ledger. This ledger shall be available for inspection at any time during the hours the pound is open.

**7.20.020 Dogs and cats – Minimum impoundment period.** Impounded dogs and cats shall be kept in the pound for not more than six calendar working days.

**7.20.030 Notification of owner – Redemption fee.** If by a license tag, the owner of an impounded animal can be identified, the animal control officer shall attempt to notify the owner by telephone within 48 hours. It shall, however, be the entire responsibility of the animal owner to ascertain his/her animal has been impounded. An owner before reclaiming an impounded animal shall pay a fee per the Master Fee Schedule adopted by resolution of the city council for the impoundment, plus a boarding fee per the Master Fee Schedule adopted by resolution of the

city council for each calendar day the animal has been impounded. That fee will increase for each subsequent impoundment for any animal with the same owner. Impound fees for dogs shall cover a period of 24 hours (from the time of impoundment), one (1) minute after said time period an additional fee for each calendar day shall be added per the Master Fee Schedule adopted by resolution of the city council. If the impounded animal is unlicensed and its owner has been a resident for over sixty (60) days, the owner shall pay a fine over and above the impoundment fees. The owner shall be required to license the animal at time of reclaiming his/her animal.

All fees shall be in the Master Fee Schedule adopted by resolution of the city council.

**7.20.040 Unclaimed animals – Sale or destruction.** Any animal not reclaimed by its owner within six (6) calendar working days may be transferred to local animal shelter for adoption and/or placement. The animal may be destroyed prior to the six (6) days if the animal is deemed sick or hurt. The opinion of a veterinarian should determine the condition of the animal.

**7.20.045 Altering of all sold or given-away animals.** All animals sold or given away shall be spayed/neutered at the expense of the new owner prior to leaving the control holding facility.

**7.20.050 Animal found at large - Penalty.** In addition to, or in lieu of, impounding an animal found at large, the owner may be subject to a class 1 infraction as defined in OHMC 1.28.

**7.20.060 Hindering officers unlawful.** It is unlawful for any person or persons to prevent or hinder the animal control officer or police officer engaged in performing his duties pursuant to this title.

**7.20.090 Immobilizing gun use authorized.** The animal control officer or police officer may have in his possession an immobilizing gun to be used at his discretion for restraining any animal that cannot be taken in the usual manner.

**7.20.100 Maximum dogs and cats per residence.** No person shall permit more than three dogs or cats over the age of four months in or on any residence in the city of Oak Harbor.

**Section Six.** Chapter 7.24 of the Oak Harbor Municipal Code entitled "Pigeons" last amended by Ordinance 401 (1974) is hereby amended to read as follows:

## **Chapter 7.24 PIGEONS**

**Sections:**

- 7.24.010 Housing and confinement required.
- 7.24.020 Pigeon associations exempt.

**7.24.010 Housing and confinement required.** It is unlawful for any person, firm or corporation to keep or maintain pigeons within the limits of the city of Oak Harbor unless the same are housed and confined in such a manner as to prevent their escape at any time from said confinement.



**7.24.020 Pigeon associations exempt.** It is lawful for any member of a recognized national, state or local pigeon association to keep, house and allow to fly for exercise and training within the corporate limits of the city of Oak Harbor, for racing, carrier, homing or air performance, pigeons which are banded with numbered leg bands showing the same to be registered with such association and provided that such pigeons are not kept so as to constitute a nuisance or create a hazard to public health.

**Section Seven.** Chapter 7.32 of the Oak Harbor Municipal Court entitled "Dangerous Dog and Potentially Dangerous Dog" last amended by Ordinance 1480 (2006) is hereby amended to read as follows:

**Chapter 7.32  
DANGEROUS DOG AND POTENTIALLY DANGEROUS DOG**

**Sections:**

7.32.010	Title.
7.32.020	Applicability.
7.32.030	Definitions.
7.32.040	Defense.
7.32.050	Declaration of dangerous dog or potentially dangerous dog – Procedure.
7.32.060	Notice of potential declaration.
7.32.070	Evidence.
7.32.080	Final decision.
7.32.090	Service.
7.32.100	Registration of dangerous and potentially dangerous dogs required.
7.32.110	Prohibited acts.
7.32.120	Penalties.
7.32.130	Destruction.
7.32.140	Costs.
7.32.150	Failure to reclaim.
7.32.160	Nuisance.

**7.32.010 Title.** The ordinance codified in this chapter shall be referred to as the dangerous dog and potentially dangerous dog ordinance.

**7.32.020 Applicability.** The provisions of this chapter shall apply to adult dogs only, which means any dog over the age of six (6) months. The declaration of dangerous dog or potentially dangerous dog follows the dog, regardless of ownership or change of ownership.

**7.32.030 Definitions.** The following definitions shall apply throughout this chapter:

- (1) "Animal control authority" means the department of the city charged with the responsibility of administering the provisions of this chapter, or the department and any other agency to which this responsibility is contractually delegated and which is thereby

charged with the duty of enforcing the animal control laws of the city and/or with the shelter and welfare of animals.

- (2) "Animal control officer" means any person or agency designated by the city as a law enforcement officer or quasi-law enforcement officer who is authorized to implement the provisions of this chapter and this title.
- (3) "Dangerous dog" means any dog that:
  - (a) Inflicts severe injury on a human being without provocation on public or private property; or
  - (b) Kills a domestic animal, without provocation, while the dog is off the owner's property; or
  - (c) Has been previously found to be potentially dangerous because of injury inflicted on a human, the owner having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals.
- (4) "Owner" or "Keeper" means any person, firm, corporation, organization, or department in possession of, harboring, keeping, having an interest in, or having temporary physical custody or permanent custody of an animal. Any actions exercisable against the owner in this chapter shall also be exercisable against the keeper.
- (5) "Potentially dangerous dog" means:
  - (a) Any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury to or to otherwise endanger the safety of humans or other domestic animals; or
  - (b) Any dog which unprovoked inflicts bites on a human or domestic animal either on public or private property; or
  - (c) Any dog which unprovoked chases or approaches a person upon the streets, sidewalks or other public grounds in a menacing fashion or apparent attitude of attack.
- (6) "Proper enclosure" of a dangerous dog or a potentially dangerous dog means that while on the owner's property, a dangerous dog shall either be:
  - (a) Securely confined indoors; or
  - (b) In a securely enclosed and locked pen or structure suitable to prevent the entry of children under the age of ten (10) years and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top and

provide protection from the elements for the dog. If such pen or structure does not have a bottom that is secured to the sides, the sides must be embedded at least one (1) foot into the ground.

- (7) “Running at large” means to be off the premises of the owner and not under the immediate control of the owner or other competent person authorized by the owner, by means of a leash, cord or chain, except when in or on any vehicle and securely confined to such vehicle.
- (8) “Severe injury” means any physical injury that results in broken bones or lacerations requiring multiple sutures or cosmetic surgery.

**7.32.040 Defense.** Dogs shall not be declared dangerous or potentially dangerous if the threat, injury, or damage was sustained by a person who, at the time:

- (1) Was committing a willful trespass upon the property or vehicle occupied or owned by the owner of the dog; or
- (2) Was tormenting, abusing, or assaulting the dog; or
- (3) Has, in the past, tormented, abused, or assaulted the dog; or
- (4) Was committing or attempting to commit a crime.

**7.32.050 Declaration of dangerous dog or potentially dangerous dog – Procedure.**

- (1) The animal control officer shall issue a notice of potential declaration to the owner of the dog following the guidelines of service found at OHMC 7.32.090. Said notice will include an opportunity for the owner to discuss the action in writing or orally with the animal control officer within fourteen (14) days of receipt of the notice.
- (2) After the discussion or the fourteen (14) day period, whichever comes first, the animal control officer shall issue a final decision in the form of either a final declaration or a letter of no finding.
- (3) If the dog has been impounded due to its actions, such impoundment shall continue during the pendency of the above procedure. The owner shall be responsible for the cost of impoundment regardless of the outcome of the action.
- (4) The Oak Harbor Municipal Court can take note of and consider the owner’s failure to discuss the action with the animal control officer or failure to raise any and all defenses at the discussion with the animal control officer.

**7.32.060 Notice of potential declaration.** Notice in the form of a declaration given to an owner in the manner described below or in OHMC 7.32.080 shall be prima facie evidence that the owner acted knowingly, although notice is not the only way to prove the owner’s knowledge of

the animal's propensity. Any notice of potential declaration must be in writing and include the following:

- (1) A description of the animal;
- (2) The name and address of the owner, if known;
- (3) The whereabouts of the animal if it is not in the custody of the owner;
- (4) A brief statement of why the dog is being considered a dangerous or potentially dangerous dog;
- (5) The specific provision or provisions of OHMC 7.32.030(3) or (5) which the animal control officer has found applicable;
- (6) The restrictions that could be placed on the dog as a result of a final declaration;
- (7) The penalties for violation of the restrictions of a final declaration, including the possibility of destruction of the dog, civil damages assessed against the owner, imprisonment and fines incurred by the owner through criminal prosecution;
- (8) The date, time and location to meet with the animal control officer to discuss the action.

**7.32.070 Evidence.** Based on an investigation, the animal control officer may find and declare a dog dangerous or potentially dangerous if he has a reasonable belief that the dog falls within the definitions set forth in OHMC 7.32.030(3) or (5). For the purposes of this chapter, a reasonable belief may be supported by any of the following:

- (1) The written complaint of a citizen who has witnessed the animal acting in a manner which causes it to fall within the definitions in OHMC 7.32.030(3) or (5) and is willing to so testify in a court of law; or
- (2) Dog bite reports filed with the animal control officer; or
- (3) Actions of the dog witnessed by the animal control officer or any law enforcement officer; or
- (4) A verified report that the animal previously has been found to be either potentially dangerous or dangerous by the animal control officer; or
- (5) Other substantial evidence admissible in a court of law.

**7.32.080 Final decision.** The final decision shall consist of either a final declaration or a letter of no finding issued to the owner.

- (1) In the event the animal control officer finds reason to issue a final declaration, it shall contain the following:
  - (a) A description of the animal;
  - (b) The name and address of the owner, if known;
  - (c) The date and time of the meeting with the owner, if any;
  - (d) A brief statement of why the dog has been found to be a dangerous or potentially dangerous dog;
  - (e) The specific provision or provisions of OHMC 7.32.030(3) or (5) which the animal control officer found applicable;
  - (f) The restrictions placed on the dog as a result of the declaration;
  - (g) The penalties for violation of the restrictions, including the possibility of destruction of the dog, civil damages assessed against the owner, imprisonment and fines incurred by the owner through criminal prosecution;
  - (h) A statement that the declaration can be appealed to the Oak Harbor Municipal Court within fourteen (14) days of the date of the declaration; and
  - (i) A subject filing for such a review will be responsible for all filing costs which they may recoup from the city of Oak Harbor if a letter of no finding is issued by the court(s); and
  - (j) A statement that failure to file a timely and complete notice of appeal will constitute a waiver of all rights to appeal said declaration.
  
- (2) A letter of no finding shall include:
  - (a) A description of the animal;
  - (b) The name and address of the owner;
  - (c) The date and time of the meeting with the owner;
  - (d) A brief summary of testimony and evidence presented at such discussion;
  - (e) A brief summary of why the animal is not being found dangerous or potentially dangerous.

**7.32.090 Service.** Service of the notice of potential declaration, final declaration or letter of no finding shall be in writing, and shall be served on the owner in one of the following methods:

- (1) Certified mail, return receipt requested or delivery confirmation requested, to the owner's last known address; or
- (2) Personally delivered with proof of personal service made by written declaration under penalty of perjury by the person effecting service declaring the time, date and manner in which service was made; or
- (3) Posting the declaration on the front door of the living unit of the owner, or person with right to control the animal if said owner is not home; or
- (4) Publication in a newspaper of general circulation, if the owner cannot be located by one of the above methods.

**7.32.100 Registration of dangerous and potentially dangerous dog required.** All dangerous dogs and potentially dangerous dogs residing within the city of Oak Harbor must be registered to the current owner or keeper of the dog. The fee for registration of a dangerous dog and a potentially dangerous dog shall be per the Master Fee Schedule adopted by resolution of the city council. Registration must be renewed annually.

- (1) A dangerous dog certificate of registration shall be issued by the animal control officer to the owner of a dangerous dog if the owner presents to the animal control officer sufficient evidence of:
  - (a) A proper enclosure as defined in OHMC 7.32.030(6) in which to confine the dangerous dog;
  - (b) The posting of the premises with a clearly visible warning sign that there is a dangerous dog on the property, including a conspicuously displayed sign with a warning symbol that informs children of the presence of a dangerous dog;
  - (c) A surety bond issued by a surety insurer qualified under Chapter 48.28 RCW in a form acceptable to the city in the sum of at least Two Hundred Fifty Thousand Dollars (\$250,000), payable to any person injured by the dangerous dog; or a policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under RCW Title 48 in the amount of at least Two Hundred Fifty Thousand Dollars (\$250,000), insuring the owner for any personal injuries inflicted by the dangerous dog;
  - (d) Proof of payment of the annual registration fee;
  - (e) Proof that the dog has been micro chipped, including providing the microchip serial number or proof that the dog has been tattooed including providing the tattoo number;

- (f) Written acknowledgement of receipt of a copy of this chapter that includes a statement that the acknowledger has read and understood what is required to keep a dangerous dog within the city.
- (2) A potentially dangerous dog certificate of registration shall be issued by the animal control officer to the owner of a potentially dangerous dog if the owner presents to the animal control officer sufficient evidence of:
- (a) A proper enclosure as defined in OHMC 7.32.030(6) in which to confine the potentially dangerous dog;
  - (b) Proof of payment of the annual registration fee;
  - (c) Proof that the dog has been micro chipped, including providing the microchip serial number or proof that the dog has been tattooed, including providing the tattoo number;
  - (d) Written acknowledgement of receipt of a copy of this chapter that includes a statement that the acknowledger has read and understood what is required to keep a potentially dangerous dog within the city and what actions may lead to a dangerous dog declaration.

**7.32.110 Prohibited acts.** It shall be unlawful for any person to:

- (1) Fail to register a dangerous dog under OHMC 7.32.100(1) within thirty (30) days of bringing the dog into the city limits or after it has been declared a dangerous dog;
- (2) Fail to secure, and maintain, the liability insurance coverage required under OHMC 7.32.100(1)(c) within thirty (30) days of bringing a dangerous dog into the city limits or after it has been declared a dangerous dog;
- (3) Fail to register a potentially dangerous dog under OHMC 7.32.100(2) within thirty (30) days of bringing the dog into the city limits or after it has been declared a potentially dangerous dog;
- (4) Fail to keep a dangerous dog or a potentially dangerous dog in a proper enclosure as defined in OHMC 7.32.030(6);
- (5) Allow a dangerous dog or a potentially dangerous dog outside of a proper enclosure, unless the dog is muzzled, restrained by a substantial chain or leash and under the physical control of a person over the age of eighteen (18) years who is of sufficient size and stature to control the animal. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.

### **7.32.120 Penalties.**

- (1) Violations of any of the prohibited acts under OHMC 7.32.110 may result in the following penalties:
  - (a) Immediate confiscation of the dog:
    - (i) The animal control officer shall immediately confiscate and impound any dangerous dog not registered, or insured, or kept in a proper enclosure and the animal control authority shall hold the same until such time as the prohibited act is abated.
    - (ii) The animal control officer shall immediately impound any dangerous dog or potentially dangerous dog found running at large as defined in OHMC 7.32.030(7).
  - (b) The owner of said dog shall be guilty of a gross misdemeanor punishable by a fine of up to Five Thousand Dollars (\$5,000) or a jail sentence of one (1) year or both fine and jail time.
  - (c) Each day of violation is a separate offense.
- (2) If a dangerous dog of an owner with a prior conviction under this chapter or Chapter 16.08 RCW attacks or bites a person or another domestic animal, the dog's owner is guilty of a Class C felony, punishable in accordance with RCW 9A.20.021. In addition, the dangerous dog shall be immediately confiscated by an animal control officer, placed with the animal control authority to be held in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.
- (3) The owner of any dog that aggressively attacks and causes severe injury or death of any human, whether the dog has previously been declared potentially dangerous or dangerous, shall be guilty of a Class C felony, punishable in accordance with RCW 9A.20.021. In addition, the dangerous dog shall be immediately confiscated by an animal control officer, placed with the animal control authority to be held in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

**7.32.130 Destruction.** Whenever the animal control authority comes into possession of a dangerous dog or potentially dangerous dog they shall destroy the same if the dog is not reclaimed by the owner within thirty (30) days. Under no circumstances shall a dangerous dog be sold or given to another as a pet.

### **7.32.140 Costs.**

- (1) The owner of any dog found to be a potentially dangerous dog or dangerous dog under this chapter shall be assessed all actual service costs expended under OHMC 7.32.050(3).



- (2) The owner of any dog found to be a potentially dangerous dog or dangerous dog under this chapter shall be assessed all costs of confinement for any dog impounded pursuant to a violation of OHMC 7.32.110.
- (3) The owner of any dog found to be a potentially dangerous dog or dangerous dog under this chapter shall be assessed all costs of destruction expended for any dog impounded and not reclaimed under OHMC 7.32.130.

**7.32.150 Failure to reclaim.** Whenever a dog is seized and impounded under this chapter, the failure to either reclaim the dog or to give a written surrender of the dog to the animal control authority shall result in the owner being prohibited from registering any new dogs in the city for a period of one year. This prohibition shall not apply to the renewal of any existing dog license.

**7.32.160 Nuisance.** The harboring, keeping and maintaining of a potentially dangerous dog or dangerous dog contrary to this chapter is a public nuisance and is subject to abatement by judicial procedure or by a summary abatement in an emergency or life-threatening situation. If summary removal of a dog occurs, the dog shall not be destroyed before a hearing can be held concerning the removal and destruction.

**Section Eight.** Chapter 7.36 of the Oak Harbor Municipal Code entitled "Animal Cruelty" last amended by Ordinance 1477 (2006) is hereby amended to read as follows:

### **Chapter 7.36 ANIMAL CRUELTY**

**Sections:**

- 7.36.010 Definitions.
- 7.36.015 Civil animal cruelty – Prohibited acts.
- 7.36.020 Civil penalty.
- 7.36.025 Criminal animal cruelty – Prohibited acts.
- 7.36.030 Criminal penalty.
- 7.36.040 Affirmative defense.
- 7.36.045 Charging cruelty offenses.
- 7.36.050 Poisoning of animals.

**7.36.010 Definitions.**

- (1) “Abandoned” means placing an animal in the custody of a veterinarian, boarding kennel owners, or any person for treatment, board, or care, either for an unspecified time and failing to remove the animal after fifteen (15) days’ notice, or for a specified time and failing to remove the animal at the end of the specified period.
- (2) “Animal control officer” means any person or agency designated by the city as a law enforcement officer or quasi-law enforcement officer who is authorized to implement the provisions of this chapter and this title.

- (3) “Necessary food” means the provision at suitable intervals of wholesome foodstuff suitable for the animal’s age and species and sufficient to provide a reasonable level of nutrition for the animal.
- (4) “Owner” means any person, firm, corporation, organization, or department in possession of, harboring, keeping, having an interest in, or having control or custody of an animal.

**7.36.015 Civil animal cruelty – Prohibited acts.**

- (1) Any person is guilty of civil animal cruelty if the person does any of the following:
  - (a) Inflicts suffering or pain upon an animal, except as otherwise authorized by law; or
  - (b) Teases, tantalizes or provokes any animal with the intent to cause destructive behavior, fear or hostility; or
  - (c) Keeps an animal in an unsanitary condition.
- (2) Any owner of an animal is guilty of civil animal cruelty if the owner does any of the following:
  - (a) Fails to provide the animal with necessary food, water, shelter, rest, sanitation, ventilation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure; or
  - (b) Abandons the animal.

**7.36.020 Civil penalty.**

- (1) A person who violates section 7.36.015 commits a civil violation.
- (2) As part of a civil remedy the court shall order the forfeiture of the offender's interest in any animal that was the basis for the violation.
- (3) As part of a civil remedy the court may also order:
  - (a) The offender not to possess or reside with any animal for up to fifteen (15) years;
  - (b) Civil fines in an amount not to exceed One Thousand Dollars (\$1,000);
  - (c) Up to one hundred (100) hours of non-animal-related community service be performed by the offender;
  - (d) Psychological or behavioral evaluations and counseling as the court deems fit;

- (e) The limitation of the offender's employment interaction with animals;
- (f) Routine visits by an animal control officer to ensure compliance with its order;
- (g) Any other relief as the court deems fit.

**7.36.025 Criminal animal cruelty – Prohibited acts.**

- (1) Any person is guilty of criminal animal cruelty if the person, under circumstances not amounting to animal cruelty in the first degree as defined under RCW 16.52.205, as now in effect or as hereafter amended, does any of the following:
  - (a) Knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal; or
  - (b) Teases, tantalizes or provokes any animal with the intent to cause destructive behavior, fear or hostility; or
  - (c) Keeps an animal in an unsanitary condition.
- (2) Any owner of an animal is guilty of criminal animal cruelty if the owner knowingly, recklessly, or with criminal negligence, under circumstances not amounting to animal cruelty in the first degree as defined under RCW 16.52.205, as now in effect or as hereafter amended, does any of the following:
  - (a) Fails to provide the animal with necessary food, water, shelter, rest, sanitation, ventilation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure; or
  - (b) Abandons the animal.

**7.36.030 Criminal penalty.** Animal cruelty is a misdemeanor punishable by a maximum of up to ninety (90) days in jail and/or a fine of One Thousand Dollars (\$1,000).

**7.36.040 Affirmative defense.** In any prosecution of animal cruelty, it shall be an affirmative defense, if established by the defendant by a preponderance of the evidence, that the defendant's failure was due to economic distress beyond the defendant's control.

**7.36.045 Charging cruelty offenses.** The attorney for the city may elect to charge a defendant with either the civil violation of cruelty to animals under section 7.36.015 or the crime of cruelty to animals under section 7.36.025. In making this section, the attorney for the city shall consider the severity of the cruelty displayed, any prior convictions or adjudications of animal cruelty entered against the defendant, whether there was economic hardship leading to the violation and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case. The election and determination required by this subsection are not subject to judicial review.

**7.36.050 Poisoning of animals.**

- (1) A person is guilty of the crime of poisoning animals if the person intentionally or knowingly poisons an animal under circumstances which do not constitute animal cruelty in the first degree, such as lying out to expose or leaving exposed any kind of poison or poisoned food or drink where it is accessible to an animal.
- (2) Subsection (1) of this section shall not apply to:
  - (a) Euthanizing by poison an animal in a lawful and humane manner by the animal's owner, or by a duly authorized servant or agent of the owner, or by a person acting pursuant to instructions from a duly constituted public authority; or
  - (b) Reasonable use of rodent or pest poison, insecticides, fungicides or slug bait for their intended purpose.
- (3) Poisoning an animal is a gross misdemeanor crime, punishable by a maximum of one (1) year in jail and/or a Five Thousand Dollar (\$5,000) fine.

**Section Nine.** Chapter 7.40 of the Oak Harbor Municipal Code entitled "Exotic Animals" last amended by Ordinance 1444 (2005) and Ordinance 1457 (2006) is hereby amended to read as follows:

**Chapter 7.40  
EXOTIC ANIMALS**

**Sections:**

- 7.40.010 Chapter intent.
- 7.40.020 Definitions.
- 7.40.030 Scope.
- 7.40.040 Violation – Penalty.
- 7.40.050 Euthanasia in exigent circumstances.
- 7.40.060 Exceptions.

**7.40.010 Chapter intent.** It is the intent of the Oak Harbor city council to limit and set conditions on the possession or maintenance of exotic animals as defined by this chapter in order to preserve the public peace and safety, to reduce the possibility of ecosystem degradation by introducing species not native to this environment, and to assure the humane treatment of such exotic animals.

**7.40.020 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) “Animal control officer” means any person or agency designated by the city of Oak Harbor as a law enforcement officer or quasi-law enforcement officer who is authorized to implement the provisions of this chapter and this title.
- (2) “Exotic animal” means any species of animal that is both nondomesticated and capable of killing or seriously injuring a human being. Subject to the preceding sentence, the definition of “exotic animal” contained in this section includes but is not limited to:
  - (a) Nonhuman primates and prosimians;
  - (b) Species of ursidae such as bears;
  - (c) Nondomesticated species of felines and their hybrids such as lions, tigers, cougars, ocelots, servals and lynx;
  - (d) Nondomesticated species of canines and their hybrids, including wolf and coyote hybrids;
  - (e) The order Crocodylia, including alligators, crocodiles, caimans and gavials;
  - (f) Constricting snakes such as pythons and boa constrictors over ten (10) feet in length;
  - (g) All venomous species of snakes and reptiles (regardless whether their venom glands have been removed) capable of inflicting serious physical harm or death to human beings;
  - (h) All venomous insects and spiders capable of inflicting serious physical harm or death to human beings;
  - (i) Reptiles capable of inflicting serious physical harm or death to human beings;
  - (j) Emus and ostriches;
  - (k) Procyonidae (raccoons, coatis);
  - (l) Mustelidae (examples: weasels, skunks, martens) except not including ferrets or mink;
  - (m) Wallabies and kangaroos.
- (3) “Person” means any individual, partnership, corporation, organization, trade or professional association, firm, limited liability company, joint venture, association, trust, estate or any other legal entity, and any officer, member, shareholder, director, employee, agent or representative thereof.

**7.40.030 Scope.** This chapter shall not include domestic cats and dogs, which shall be regulated under a different chapter. The traditional ownership of cats and dogs allows for more freedom of mobility and thus requires a different regulatory scheme.

**7.40.040 Violation – Penalty.**

- (1) It is unlawful for any person, firm or corporation to own, possess, keep, maintain, harbor, bring into the city, have control or custody of, an exotic animal except as specified in this chapter.
- (2) Violators of subsection (1) of this section are guilty of a misdemeanor and are subject to a fine not to exceed One Thousand Dollars (\$1,000) or confinement in jail up to ninety (90) days in jail or both such fine and jail time.
- (3) All other animals, vertebrate or invertebrate, must be housed and confined in such a manner as to prevent their escape at any time from said confinement. At-large status for any such animal shall constitute per se proof of a violation of this section.
- (4) Violators of subsection (3) of this section may be punishable by:
  - (a) A class 1 infraction as defined in OHMC 1.28 for their first two offenses; or
  - (b) A misdemeanor and subject to a fine not to exceed One Thousand Dollars (\$1,000) or confinement in jail up to ninety (90) days in jail or both such fine and jail time for their third and subsequent offenses.
- (5) It shall not be a defense to any violation of this section that identifiably different animals are involved in the alleged violation(s).

**7.40.050 Euthanasia in exigent circumstances.** An exotic animal possessed or maintained in violation of this chapter or the rules and regulations of the animal control authority may be subject to euthanasia if any one of the following exigent circumstances is deemed to exist by the director of the animal control authority:

- (1) The exotic animal presents an imminent threat of serious physical harm to the public and there is no other reasonably available means of abatement; or
- (2) There is no reasonable basis to believe that the violation can be, or in good faith will be, corrected and after reasonable search or inquiry by the animal control authority, no facility as authorized by local, state or federal law is available to house the exotic animal; or
- (3) The exotic animal suffers from a communicable disease injurious to other animals or human beings; provided, that this section shall not apply if the animal:
  - (a) Is under treatment by a licensed veterinarian; and

- (b) May reasonably be expected to recover without infecting other animals or human beings; and
- (c) The animal is not being released to reside permanently or temporarily within the city limits of Oak Harbor.

**7.40.060 Exceptions.** The provisions of this chapter shall not apply to:

- (1) Institutions accredited by or under the mentorship of the American Zoo and Aquarium Association (AZA).
- (2) Duly incorporated nonprofit animal protection organizations housing an exotic animal at the written request of the animal control authority.
- (3) Animal control or law enforcement agencies or officers acting under the authority of this chapter.
- (4) Licensed veterinary hospitals or clinics.
- (5) Any wildlife sanctuary as defined under this chapter, as part of a licensed veterinary clinic which is involved in rehabilitation of animals.
- (6) Any lawfully operated circus or rodeo.
- (7) A person temporarily transporting an exotic animal through the city if the transit time is not more than twenty-four (24) hours and the animal is at all times maintained within a confinement sufficient to prevent the exotic animal from escaping.

**Section Ten.** Chapter 7.42 of the Oak Harbor Municipal Code entitled "Chicken Hens" last amended by Ordinance 1652 (2013) is hereby amended to read as follows:

**Chapter 7.42  
CHICKEN HENS**

**Sections:**

- 7.42.010 Keeping of chicken hens.
- 7.42.020 Penalties.

**7.42.010 Keeping of chicken hens.**

- (1) The keeping of chicken hens, if permitted under the terms of any private covenants, conditions or restrictions applicable to the subject property, shall be permitted on properties used for single-family and duplex residential purposes under the following conditions:

- (a) Keeping of roosters shall be prohibited.
- (b) Chicken hens may be kept, as provided in this section, by the owner or tenant of any single-family or duplex residence; provided, that the hens are kept on the same parcel where the owner of the hens resides or on a contiguous parcel under the same ownership.
- (c) One chicken hen is allowed for each one thousand five hundred (1,500) square feet of lot area to a maximum of six (6) hens.
- (d) Chicken hens shall be contained at all times within a fence, pen or coop which is constructed to prevent dogs, coyotes, cats, raccoons, rats, eagles and other predators and pests from accessing the hens.
- (e) For each chicken hen, a fenced open yard area of at least twenty (20) square feet and a fully enclosed shelter of at least four (4) square feet shall be provided.
- (f) Fenced open yard area and enclosed shelters shall be a minimum of twenty (20) feet from any habitable residential building on an adjacent property.
- (g) Chicken hens shall be treated humanely, and shall be provided adequate food, water and shelter.
- (h) Chicken hen enclosures and fenced open-yard areas shall be kept in a good working and sanitary condition, shall not cause odor or noise nuisances, and shall not be deemed to be unsightly from any public right-of-way, as determined by the animal control officer.
- (i) Coops and hen enclosures shall not be located in the front yard of a lot nor in a side yard which abuts a street.
- (j) Two or more people may cooperatively own and care for chicken hens by means of a portable coop that may be moved from one property to another; provided, that all requirements of this code are met on each of the properties to which the coop is moved.

#### **7.42.020 Penalties.**

- (1) The failure to comply with the provisions of this chapter shall constitute a class 1 infraction as defined in Chapter 1.28 OHMC. Each day of violation shall be a separate offense. This is an absolute liability offense. No mental element as defined in law is required for proof of violation.
- (2) The knowing or intentional failure or refusal to comply with an abatement order of a nuisance is a misdemeanor which shall be punished by imprisonment in jail for a maximum term fixed by the court of not more than ninety (90) days, or by a fine in an



amount fixed by the court of not more than One Thousand Dollars (\$1,000), or by both such jail sentence and fine.

**Section Eleven. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder or the Ordinance or the application of the provision to other persons or circumstances is not affected.

**Section Twelve. Effective Date.** This Ordinance shall be in full force and effect five (5) days after publication.

PASSED by the City Council this 6<sup>th</sup> day of January, 2015.

THE CITY OF OAK HARBOR

Veto ( )  
Approve (✓)

By Scott Dudley  
Scott Dudley, Mayor

Dated: 1/7/15

Attest:

Approved as to Form:

Anna Thompson  
Anna Thompson, City Clerk

Nikki Esparza  
Nikki Esparza, City Attorney

Published: 1/10/2015