

## ORDINANCE NO. 23-03

### AN ORDINANCE AMENDING CERTAIN PROVISIONS DEALING WITH DANGEROUS ANIMALS.

THE CITY OF ASTORIA ORDAINS AS FOLLOWS:

**Section 1. Dangerous Animals.** Astoria Code Sections 5.800 – 5.830 are amended to provide:

#### 5.800 Purpose

The purpose of Sections 5.805 through 5.830 is to establish a procedure whereby animals that pose a reasonably significant threat of causing serious injury to humans or other animals are identified and subjected to precautionary restrictions.

#### 5.805 Classification Of Levels Of Dangerousness

An animal shall be classified as dangerous based upon specific behaviors exhibited by the animal. Behaviors establishing various levels of dangerousness are as follows:

- A. Level 1 behavior is established if an animal, while at large, is found to menace, chase, display threatening or aggressive behavior, or otherwise threaten or endanger the safety of any domestic animal.
- B. Level 2 behavior is established if an animal, while at large, is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any person.
- C. Level 3 behavior is established if an animal, while confined, aggressively bites any person.
- D. Level 4 behavior is established if an animal, while at large, aggressively bites or causes physical injury to any person or domestic animal.
- E. Level 5 behavior is established if:
  1. an animal, whether or not confined, causes the serious injury or death of any person; or
  2. an animal, while at large, kills any domestic animal; or
  3. an animal that has been classified as a Level 4 dangerous animal repeats the behavior described in subsection (D) of this section after the owner receives notice of Level 4 classification.
- F. In any case, no animal shall be classified as dangerous if the behavior in question was directed against a trespasser inside any fully enclosed building on private property at the time the trespass occurred.

#### 5.810 Identification Of Dangerous Animals; Appeals; Restrictions Pending Appeal

- A. The chief of police or the chief's designee shall determine whether an animal is to be classified as Level 1-5. This determination shall be based upon an investigation that includes observation of and testimony about the animal's behavior. These observations and testimony can be provided by county animal control officer or by other witnesses who personally observed the behavior. The observations shall either be recorded or contained in a signed written statement describing the observations and agreeing to provide testimony regarding the animal's behavior if necessary.
- B. The chief of police or the chief's designee shall give the animal's owner written notice by certified mail or personal service of the animal's classification as a dangerous animal and of the additional restrictions applicable to that animal by reason of its classification. If the owner objects to the classification, or contends that extenuating circumstances exist, the owner may appeal the decision by filing a written request for a hearing with the chief of police within ten (10) days of the date the notice was mailed to the owner by certified mail or the owner was personally served.

- C. The municipal judge, or another person appointed by the City Manager, shall serve as the City's hearings officer on any appeal. The hearings officer shall hold a public administrative hearing on such appeal. The owner and other persons having relevant evidence concerning the animal's behavior shall be allowed to present testimony. The hearings officer may consider any evidence of a type commonly relied upon by reasonably prudent people in the conduct of their affairs and shall determine by a preponderance of the evidence whether the animal in question should be classified as a Level 1, 2, 3, 4 or 5 dangerous animal. Notwithstanding subsections (A) through (E) of section 5.805, the hearings officer shall have discretionary authority to refrain from classifying an animal as dangerous, even if the animal has engaged in the behaviors specified in subsections (A) through (E) of this section, if an owner can establish by a preponderance that the behavior was the result of abusing or tormenting the animal or other extenuating circumstances exist. Extenuating circumstances, establishing that an animal does not constitute an unreasonable risk to human life or property, may justify an animal being classified under Level 4 rather than Level 5. In all appeals under this chapter, the appellant shall have the burden of proof and the hearings officer shall have discretion in ordering conditions, restrictions, and penalties.
- D. The hearings officer shall issue an order containing a final determination, subject only to review by Writ of Review pursuant to ORS 34.010-34.102.
- E. Once the owner has received notice of the animal's classification as a Level 1, 2, 3, or 4 dangerous animal the owner shall comply with the restrictions specified in the notice until such time as the decision may be reversed on appeal. Failure to comply with the specified restrictions pending the completion of all appeals shall be a violation of this ordinance for which a fine can be imposed. Additionally, the chief of police or the designee shall have authority to impound the animal pending completion of all appeals.
- F. If the chief of police or the designee finds that an animal has engaged in Level 5 behavior, the animal shall be impounded pending the completion of all appeals. If the chief of police or his/her designee's decision is upheld on appeal, the animal's owner shall be liable for the cost of the animal's impoundment.

#### 5.815 Regulation Of Dangerous Animals

The owner of a dangerous animal shall comply with the following regulations:

- A. If the animal has been classified as a Level 1 dangerous animal, the animal shall be restrained by a physical device or structure that prevents the animal from reaching any public sidewalk or adjoining property whenever that animal is outside the owner's home and not on a leash.
- B. If the animal has been classified as a Level 2 dangerous animal, the owner shall confine the animal within a secure enclosure whenever the animal is not on a leash or inside the home of the owner.
- C. If the animal has been classified as a Level 3 dangerous animal, the owner shall meet the requirements of subsection B. of this section and shall also post warning signs on the property where the animal is kept.
- D. If the animal has been classified as a Level 4 dangerous animal, the owner shall meet the requirements of subsections B. and C. of this section and shall, additionally, not permit the animal to be off the owner's property unless the animal is muzzled and restrained by an adequate leash and under the control of a capable person.

- E. Unless a finding of extenuating circumstances is made, any animal that has been classified as a Level 5 dangerous animal shall be euthanized. In addition, the chief of police or the designee may suspend, for a period of up to five years that animal owner's right to be the owner of any animal, excluding livestock, within the city limits, including animals currently owned by that person.

**5.820 Banning Of Dangerous Animals**

- A. At the discretion of the chief of police, an animal that has been classified as a Level 3, 4 or 5 dangerous animal may be prohibited from entering or residing within the city limits except to be transported in a secure vehicle while passing through the city.
- B. In addition, the chief of police is empowered to ban a Level 3, 4 or 5 animal from the city limits for a specified period of time or permanently, however, the animal's owner shall have the right of appeal, specified in section of any decision under this section.

**5.825 Selling Of Dangerous Animals**

No person shall sell or otherwise transfer to another ownership of a dangerous animal within the city limits. No person shall secrete or harbor a dangerous animal for another while the owner of that animal exercises the right of appeal.

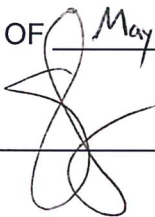
**5.830 Penalties**

Each violation of section 5.815, 5.820 or 5.830 is punishable by a fine of \$500.00.

**Section 2. Effective Date.** This ordinance shall take effect on the 30th day after its adoption.

ADOPTED BY THE CITY COUNCIL THIS 1 DAY OF May, 2023.

APPROVED BY THE MAYOR THIS 1 DAY OF May, 2023.

  
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 Mayor

ATTEST:

  
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 City Manager

ROLL CALL ON ADOPTION	YEA	NAY	ABSENT
Councilor Davis	x		
Brownson	x		
Adams	x		
Hilton	x		
Mayor Fitzpatrick	x		

