

ORDINANCE NO. 877

AN ORDINANCE RELATING TO DOG CONTROL WITHIN THE TOWN OF LAKEVIEW; IMPOSING CERTAIN RESTRICTIONS AND REGULATIONS ON CANINES, INCLUDING LICENSING REQUIREMENTS; ESTABLISHING A HEARING PROCESS; REPEALING ORDINANCE 751; AND DECLARING AN EMERGENCY.

WHEREAS, the Town of Lakeview ("Town") has all powers that the constitutions, statutes, and common law of the United States and Oregon expressly or impliedly grant or allow Town; and

WHEREAS, the Lakeview Town Council ("Council") adopted Ordinance No. 751 to regulate dogs; and

WHEREAS, the Council finds that Ordinance No. 751 is out of date and in need of revisions; and

WHEREAS, the Council desires to repeal Ordinance No. 751 and replace it with this Ordinance No. 877 (this "Ordinance").

NOW, THEREFORE, the Town of Lakeview ordains as follows:

1. **Ordinance; Definitions.** This Ordinance will be known as the "Lakeview Dog Control Ordinance." Unless the context requires otherwise, when used in this Ordinance the following terms and phrases have the meanings assigned to them below:

"Attempt(s) to bite" means the overt action(s) of a dog that constitute a substantial step toward the actual biting of a person.

"Animal Control Authority" means the Town Manager and any person appointed by the Town Manager to administer violations of ordinances, rules, and regulations of Town.

"Council" means the then appointed Lakeview Town Council.

"Dog(s)" mean any animal of the canine species.

"Enforcement Official" means any peace officer or code enforcement officer.

2. **Findings; Purpose.** The purpose of this Ordinance is to provide specific regulations for the control of dogs within Town's incorporated limits, to authorize enforcement officials to enforce the provisions of this Ordinance, to provide guidelines for the classification of a canine that is thought or proven to be dangerous, and to provide a safer environment for Town's citizens.

3. **Animal Control Authority.** The animal control authority is the Lake County Sheriff's Office and has been appointed by the Town of Lakeview Council.

4. Dog Nuisance Definitions.

4.1 Dog Nuisance. A dog is a public nuisance under any of following circumstances: (a) the dog bites or attempts to bite any person; (b) the dog chases a vehicle or person; (c) the dog damages or destroys property that belongs to someone other than its owner; (d) the dog scatters garbage; (e) the dog trespasses on the private property of a person other than its owner; (g) the dog disturbs any person by frequent or prolonged noises; and/or (h) the dog is a female in heat and is running at large. Dog running at large should be considered a nuisance.

4.2 Animal Owner. Any person, firm, association, or corporation who is the owner of a dog who has a right of property in a dog or who harbors a dog or who has it in his care, possession, custody, or control or who knowingly permits a dog to remain on any premises occupied by him. Owner does not include veterinarians or commercial kennel operators temporarily maintaining on their premises for a period of not more than 30 days, dogs owned by other persons.

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

4.3 Dog Kennel. An establishment or premises within Lake County more than 1/2 mile from the Town of Lakeview or Lakeview city limits of an incorporated town or city within the County that is licensed as such with an appropriate State or Federal Agency. No household shall own or keep more than 4 dogs within 1/2 mile of the Town of Lakeview or the incorporated Town of Lakeview town limits. No household shall have a dog kennel for breeding or boarding dogs within 1/2 mile of the Town of Lakeview or incorporated town limits of the Town or Lakeview.

4.4 Neutered. The removal of the ovaries and uterus, ovarian hysterectomy in female animals. The removal of the male gonads in male animals.

4.5 Vicious Dog. Any dog which has the propensity to bite or attack any person without provocation and the capacity to inflict harm on that person shall be regarded as vicious. It shall be presumed that any dog which has bitten a human being without provocation is a vicious dog. A watchdog who bites or attacks a person while protecting a person or property shall not be presumably considered a vicious dog. No dog shall be presumed to be vicious solely by reason of its breed, i.e. "all Pitbulls" or "all German Shepherds".

4.6 Watchdog. A dog confined at a home, business or commercial establishment to protect a person, home, business or property including but not limited to said persons, merchandise, inventory or equipment. All watch dogs shall have a special license from Lake County.

Section 5. Licenses.

5.1 Every owner of a dog which has grown a set of permanent canine teeth or has attained the age of six (6) months, whichever event occurs first, shall immediately obtain a license for the dog.

5.2 Licenses shall be acquired from Lake County and shall be valid from January 1 to December 31 and are renewable on January 1 of each year, provided further that a penalty fee shall be collected for each dog not licensed by March 1st.

5.3 No license shall be issued until a certificate of vaccination for rabies, valid for the license year, is presented to the licensing department.

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

5.5 Issuance of License. Licenses shall be issued through the Lake County Clerk or an authorized agent during regular business hours. All accounting and records shall be the responsibility of that department.

Section 6. Fees.

6.1 The dog license fee which is due and payable upon the issuance of a license, and the other fees required to be paid under the provisions of Ordinance 52.106.

6.2 No license fee shall be required for any dog owned by a blind person who uses the dog as a guide. A license shall be issued for such dog upon proper proof of rabies vaccination and upon filing an affidavit by the blind person showing such dog to come within this exemption. Such affidavit shall be filed with the Lake County clerk.

6.3 Dog owners applying for a reduced fee for a neutered or spayed dog must present to the licensing department a certificate from a licensed veterinarian stating that the dog to be licensed has been neutered or spayed.

6.4 The fee for an individual dog license owned by a person 55 years of age or older will require proper proof of rabies vaccination and proof of age of the owner.

FEE SCHEDULE

Regular Dogs	License	\$13.00
Regular Dogs After March 1	Late Fee	\$13.00
Neutered/Spayed Dog	License	\$7.00
Neutered/Spayed Dog After March 1	Late Fee	\$7.00
Senior Citizen (over 55) All	License	\$3.00
Senior Citizen (over 55) After March 1	Late Fee	\$3.00

DOG LICENSE AFTER BEING CITED

All Dogs	\$30.00 plus License Fee
Personal Dog Turned In	\$25.00 plus Signed Release

Section 7. Vicious Dog.

7.1 Except for licensed watchdogs, no person shall own a vicious dog.

7.2 A vicious dog may be impounded by any peace officer or animal control officer and destroyed after satisfying the provisions of this Ordinance.

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

7.3 An animal owner keeping a licensed watchdog shall post the premises with at least four (4) conspicuous signs, not less than 6" by 12" each to warn the public. At no time shall a watch dog be permitted to run at large. Any such dog running at large shall be considered a vicious dog under this Ordinance.

Section 8. Impoundment of Dogs.

8.1 Any peace officer or animal control officer may impound a dog that is in violation of this Ordinance.

8.2 The animal control officer shall impound a dog if the owner of the dog has not posted bail or paid a fine for a violation of this Ordinance imposed by any Court pursuant to this Ordinance.

8.3 Any person whose property has been trespassed upon by a dog in violation of this Ordinance may immediately apprehend that dog upon his premises and hold the dog until delivery to an animal control officer, or to any peace officer. Any person who so impounds a dog must immediately notify the animal control authority of such impoundment.

Section 9. Impounding Regulations and Disposition of Impounded Dogs.

9.1 The animal control authority shall keep any dog impounded for the period of time hereinafterspecified. A daily record of such dogs shall be kept at the place of impoundment and shall be made available to the public by the Animal Control Authority when requested by any member of the public.

The animal control authority shall dispose of such dogs in accordance with the following provisions:

9.2 An unlicensed dog or a dog for which the owner is unknown which has not been redeemed with seven (7) working days, may be adopted or destroyed.

9.3 A licensed dog or a dog for which the owner is known which has not been redeemed with seven (7) working days after notification of the owner by telephone contact or by mailing of impoundment notice may be adopted or destroyed.

9.4 Except as provided in Section 7.1, the animal control authority shall notify the owner in person, by telephone or by the mailing of an impoundment notice as soon as practicable after impoundment. The impoundment notice shall advise the owner of the place where the dog is kept, the procedure required for the redemption of the dog; the fees for the impoundment, daily care and redemption, and the consequences of failure to redeem the dog.

9.5 A dog owner whose dog is impounded as a vicious dog under Section 5 of this code, within the period described in Sections 7.1.1 and 7.1.2, whichever is applicable, believing himself aggrieved by the seizure and impounding of his dog, may apply to the District Court for the release of his dog, and the District Court shall thereupon set a time and place for hearing the application and notify the impounding officer, and upon a summary hearing the District Court shall have full power to determine whether the dog has been wrongfully impounded and whether it shall be returned to its owner, and upon what terms. Wrongful impoundment shall not result in any liability to the Town of Lakeview or its agents and employees.

9.6 Notwithstanding the previous sections, any dog given to the dog control authority by the owner for disposal may be destroyed immediately, or, in the alternative, sold to any person. Dogs or cats specifically requested by the owner to be destroyed shall be destroyed.

9.7 Impound facilities must comply with requirements of ORS.

9.8 Any animal to be disposed of under this Ordinance, shall be put to sleep as provided for by ORS 609.405 and OAR Chapter 875 section 20.

Section 10. Reporting of Biting Dogs or Other Animals.

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

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

10.3 When a doctor, veterinarian, hospital employee or other person has information that a person has been bitten by a dog or other animal, such person shall forthwith notify the dog control authority.

Section 11. Biting and Rabid Dogs and Other Animals – Quarantine.

11.1 When either the animal control authority or the departments of public health and sanitation or public safety of Lakeview or Lake County has grounds to suspect that a dog is infected with the disease of rabies, there shall be delivered to the owner of the dog a written notice thereof. The owner shall thereupon be required to quarantine the dog for 10 days. The biting of any person by the dog shall constitute adequate grounds for suspecting the dog to be so infected. The delivery of the notice to a member of the owner's family 14 years of age or older at the premises where the dog is kept or at the owner's usual place of abode, shall be considered a delivery of the notice to the owner. Any dog or required to be quarantined shall be confined as follows:

11.1.1 On the owner's premises in such a manner as to prevent it from being in contact with any other animal or person, or

- 11.1.2 At the owner's expense in a veterinary hospital, or a kennel approved by either the department of health and sanitation or the animal control authority.
- 11.2 Any animal that has been bitten by a dog proved to be rabid shall be destroyed.
- 11.3 If a dog exhibits symptoms of rabies while it is under quarantine, the Public Health Officer may order in writing that it be destroyed and that its head be submitted to the Oregon State Public Health Laboratory.

Section 12. Prohibited Acts.

- 12.1 Dogs Running at Large. An owner must not permit his or her dog to run at large in the Town. To run at large includes to wander or stray off the premises of the owner or the person in care, custody or possession of the dog not within the complete control by an adequate leash of the owner or person in care, custody or possession of the dog. When a dog is found running at large and its ownership is verified by the Lake County Sheriff's Office, the authority may exercise the option of serving the owner with a notice of violation in lieu of impounding the animal.
- 12.2 Dog Waste. An owner must immediately remove solid waste matter deposited by the owner's dog within and/or on any public property, public right-of-way, public trails, or other improved property other than the property of the owner.
- 12.3 It is the determination of the Town of Lakeview, that the owner of a dog should be held strictly responsible for the conduct of that dog. Unless specifically contained therein, the following prohibited acts specifically contain no culpable mental state.
- 12.4 Owning a Public Nuisance Prohibited. No person shall own a dog which is a public nuisance.
- 12.5 Trespassing Dogs. A dog which trespasses on private property of persons other than the owner, the dog is a public nuisance.
- 12.6 Biting Dogs. A dog which bites a person without provocation is a public nuisance, and shall be considered a vicious dog.
- 12.7 Dog Killing or Chasing Livestock. A dog which chases, kills or wounds or injures livestock not belonging to the dog's owner while off the premises or under the control of the dog's owner is a public nuisance. Any dog, whether licensed or not, while off the premises owned or under the control of the dog's owner that kills, wounds, or injures any livestock not belonging to the owner is a public nuisance and may be killed immediately by any person.
- 12.8 Dogs Damaging Property. Any dog which damages or destroys property of persons other than the owner of the dog is a public nuisance.

12.9 Barking and Howling Dogs. A dog that persistently barks and howls which unreasonably deprives other persons of peace and quiet is a public nuisance.

12.8 Dog Waste Matter. A dog which deposits waste matter on any improved property other than the dog's owner is a public nuisance. It is a defense to this section if the dog's owner immediately removes the solid waste.

Section 13. Ordinance Enforcement.

13.1 The dog control officer, the officers of the Town of Lakeview Police Department, the Sheriff and Deputies of the Lake County Sheriff's Office and officers of the Oregon State Police have the authority and are charged with the enforcement of this Ordinance.

13.2 It shall be unlawful for any person to intentionally interfere with any animal control officer or police officer engaged in the enforcement of this Ordinance.

Violation of this specific section is a misdemeanor with a sentence of up to 30 days in the county jail, a fine up to \$1,000.00.

Section 14. Ordinance Enforcement Proceeding and Penalties.

14.1 Lake County District Court has concurrent jurisdiction of offenses committed in violation of this Ordinance.

14.2 Violation of any provision of this Ordinance constitutes a violation punishable by fine of not less than \$100.00 and not more than \$1,000.00. The second and each subsequent violation of the same provision of this Ordinance in any given period of 365 consecutive days is punishable by a fine of not less than \$250.00 and not more than \$1,000.00. Every full day during which an activity continues to be conducted in violation of this Ordinance will be considered a separate offense. In addition to the penalties provided in this Section 14, the Town may sue in a court of competent jurisdiction (including, without limitation, Lake County Circuit Court) to obtain a judgment by execution and/or seek an injunction to prohibit a person from violating this Ordinance. If the Town prevails in any action under this Section 14, Town will recover reasonable attorney fees to be set by the court in addition to its costs and disbursements. Such fees are recoverable at all levels of trial and appeal. Whenever a fee required by this Ordinance is not paid when due, the Town may add a penalty to the fee of an amount equal to ten percent (10%) of the fee for each month (or part thereof) during which the fee and accumulated penalty amounts remain unpaid. The total amount of the fee and accumulated penalties may not exceed one hundred percent (100%) of the original fee. The penalties imposed by this Section 14 are not exclusive and are in addition to any other rights or remedies, civil or criminal, available to Town under applicable law.

14.3 A proceeding for violation of this Ordinance shall be commenced by filing of a complaint verified by oath of the person and bearing an endorsement with acceptance by the District Attorney having jurisdiction thereof who thereafter is known as the complainant.

14.4 The District Attorney is charged with prosecution of a proceeding for violating any provision of this Ordinance.

14.5 Except as otherwise provided, any person found to have violated a provision of this Ordinance shall be punished by a fine not less than \$10.00 nor more than \$1,000.00, plus the actual cost and expense in the seizure, holding, treatment, maintenance, and disposal of the dog.

When a person has been found guilty of violation of this Ordinance and when the court finds that a person has suffered pecuniary damages as a result of the violation, in addition to any fine imposed, the court may order that the defendant make restitution to the victim.

Pecuniary damages mean all special damages, but not general damages, which a person could recover against a defendant in civil action arising out of the facts or events constituting the violation of this Ordinance, and shall include, but are not limited to, the money equivalent of the property taken, destroyed, broken or otherwise harmed and losses such as medical expenses.

In the case of an owner of any livestock that has been damaged by being injured, chased, wounded or killed by any dog, if one or more dogs owned by different persons participating in damaging any livestock, the owners of the respective dogs shall be jointly and severally liable for restitution. The owners of dogs jointly or severally liable have the right of contribution among themselves; the right exists, only in favor of an owner who has paid more than his pro rata share, determined by dividing the total damage by the number of dogs involved, of the common liability, and his total recovery is limited to the amount paid by him in excess of the pro rata share.

14.6 In addition to any fines or restitutions ordered to be paid for violation of this Ordinance if a dog has twice before been found to be a public nuisance, the court may order such disposition of the dog as the court considers necessary for the safety or health of the public. If a dog is found to be a public nuisance as a result of biting another person the court may after a first offense order such disposition as the court considers necessary for the health and safety of the public.

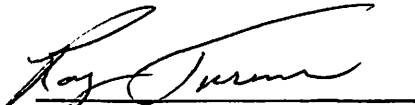
Section 15. Corrections.

15.1 This Ordinance may be corrected by order of the Council to cure editorial and clerical errors.

Section 16. Emergency Declaration.

16.1 The Council finds that passage of this Ordinance is necessary for the immediate preservation of the peace, health, and safety of Town's citizens. The Council further finds that a delay of thirty (30) days prior to the effective date of this Ordinance may result in acts, omissions, and/or conditions detrimental to Town and the public welfare. Therefore, an emergency is declared to exist and this Ordinance will be in full force and effect upon its passage and adoption by the Council and approval of the mayor.

This Ordinance was PASSED and ADOPTED by the Council by a vote of 4 for and Dagainst and APPROVED by the mayor on this 26 day of April, 2022


Ray Turner, Mayor

ATTEST:


Town Recorder