

TITLE 5

PUBLIC PEACE, HEALTH, SAFETY, AND WELFARE

SUBTITLE 3 - ANIMAL CONTROL

CHAPTER 560

DOG CONTROL CODE

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- I. General Provisions: LCC 560.005 to 560.099**
- II. Dog Control Administration Code: LCC 560.100 to 560.199 (formerly codified at Chapters 5.45 and 560)**
- III. Dog Licensing Code: LCC 560.200 to 560.299**
- IV. Dog Kennel Code: LCC 560.300 to 560.399 (formerly codified at Chapters 5.46 and 562)**
- V. Dog Nuisance Code: LCC 560.400 to 560.499**
- VI. Livestock Injury Code: LCC 560.500 to 560.599**
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- VIII. Penalties: LCC 560.900 to 560.999**

Appendix 1 — Chart Illustrating General Outline of Dog Control Enforcement

I. GENERAL PROVISIONS

560.005 Chapter title; Dog Control Code

(A) This Chapter, LCC 560.005 to 560.999, shall be known and may be cited as the “Linn County Dog Control Code” or simply as the “Dog Control Code.”

(B) This Chapter consists of seven subchapters:

- (1) the Dog Control Administration Code (LCC 560.100 to 560.199);
- (2) the Dog Licensing Code (LCC 560.200 to 560.299);
- (3) the Dog Kennel Code (LCC 560.300 to 560.399);
- (4) the Dog Nuisance Code (LCC 560.400 to 560.499);
- (5) Livestock Injury Code (LCC 560.500 to 560.599);
- (6) the Dangerous Dog Code (LCC 560.600 to 560.699); and
- (7) Penalties (LCC 560.900 to 560.999).

[Adopted 98-100 §2 eff 4/1/98; amd 99-058 §4 3/3/99]

560.010 Statement of purpose; county ordinance supercedes state law

(A) Pursuant to ORS 609.015 and 609.135, ORS 609.010 to 609.190 apply in Linn County as supplemented and amended by this Chapter.

(B) The purpose of LCC 560.005 to 560.999 is:

- (1) to adopt, supplement, and supercede certain provisions of ORS Chapter 609 by providing regulations governing the control of dogs in Linn County; and
- (2) to grant authority to the Director and to dog control officers to enforce this Chapter and to cite persons for offenses in violation of this Chapter and ORS Chapter 609.

(C) Whenever this Chapter conflicts with ORS Chapter 609, this Chapter shall prevail, except as otherwise required by ORS Chapter 609. However, neither this subsection nor any provision in this Chapter shall be construed to limit the ability of a dog control officer, peace officer, or other law enforcement officer to

enforce the provisions of ORS Chapter 609 by citation for offenses of ORS Chapter 609.

[Adopted 86-120 §1 eff 4/30/86; formerly 5.45.010; amd 98-100 §2 eff 4/1/98; amd 2010-330 §1 eff 10/13/10]

[LCC 560.011 to 560.099 reserved for future use]

II. DOG CONTROL ADMINISTRATION CODE

560.100 Subchapter title; Dog Control Administration Code

This Subchapter, LCC 560.100 to 560.199, shall be known and may be cited as the “Linn County Dog Control Administration Code” or simply as the “Dog Control Administration Code.”

[Adopted 91-431 §8 eff 7/1/91; formerly 5.45.005; amd 98-100 §2 eff 4/1/98; amd 99-058 §4 3/3/99]

560.110 Definitions

As used in this Chapter, except as otherwise defined in this Chapter, the term:

(A) “**Animal**” means any nonhuman mammal, bird, reptile, amphibian, or fish.

(B) “**Bite**” means that a dog has physical contact with a person, pet, or domestic animal by use of the dog’s mouth or teeth, and such contact causes damage to the person, pet, or domestic animal.

(C) “**Board**” means the Board of County Commissioners for Linn County.

(D) “**Chairperson**” means the Chairperson of the Board.

(E) “**Chase**” means that a dog follows a person, pet, or domestic animal rapidly and intently, but does not require that the dog has a predatory intent or that the person, pet, or domestic animal suffers any damage as a result of the dog’s actions.

(F) “**Dangerous dog**” means any dog that has been found pursuant to an investigation conducted under this Chapter to have engaged in any of the behaviors specified in LCC 560.650.

(G) “**Department**” means the Linn County Dog Control Department.

(H) “**Director**” means the Director of the Linn County Dog Control Department.

(I) “**Dog,**”

(1) in reference to a potentially dangerous dog or a dangerous dog, or in reference to a violation of LCC 560.410 or 560.415, means any mammal of the canine family, and includes wolves and coyotes, whether pure bred or mixed breed;

(2) in all other contexts, means any mammal of the canine family, which has permanent canine teeth or is over the age of six months.

(J) “**Dog control officer**” means an employee of the Department or person who has authority to enforce any provisions of ORS Chapter 609 or this Chapter. The term includes the Director, deputy dog control officers, and any peace officer.

(K) “**Dog owner**” means any person or legal entity claiming a possessory right in a dog or who harbors, cares for, exercises control over or knowingly permits any dog to remain on premises occupied by that person. The term includes the dog owner, keeper of the dog, and, unless the context requires otherwise, any person to whom a dog is transferred, sold, or given pursuant to LCC 560.670. Dog owner does not include:

(1) a licensed business primarily intended to obtain a profit from the kenneling of dogs;

(2) an humane society or other nonprofit animal shelter;

(3) a facility impounding dogs on behalf of a city or the County; nor

(4) a veterinary facility.

(L) “**Domestic animal**” means an animal, other than livestock, that is owned or possessed by a person.

(M) “**Domesticated fowl**” means birds bred and raised for human benefit or use, including but not limited to consumption, sale, show, or fighting.

(N) “**Hobby breeding**” means the occasional breeding of a dog for the purpose of

improving a bloodline or for the purpose of selling dogs.

(O) **“Injure”** means a situation where there is no physical contact between a dog and a person, pet, or domestic animal and the dog’s actions results in damage to the person, pet, or domestic animal.

(P) **“Injured person”** or **“person injured”** means

(1) the person alleged to have been a victim of behavior described in LCC 560.640 or 560.650 by a dog, or the representative of such a person, or

(2) an owner of livestock who alleges that the owner’s livestock has been a victim of behavior defined in LCC 560.507 , or

(3) an owner of a pet or domestic animal whose pet or domestic animal has been a victim of behavior described in LCC 560.640 or 560.650.

(Q) **“Kill,”** as used in the context of a dog’s behavior against a person, pet, or domestic animal, means that a dog’s actions cause the death of a person, pet, or domestic animal.

(R) **“Kennel”**

(1) means a site operated and maintained for the care and custody of more than four but not more than 20 dogs. Each dog must be used exclusively for:

- (a) exhibition or show;
- (b) hobby breeding;
- (c) livestock herding; or
- (d) hunting.

(2) The term does not mean an establishment which is required to obtain and in fact does obtain a license from the United States Department of Agriculture.

(S) **“Livestock”** means ratites, psittacines, horses, mules, jackasses, cattle, llamas, sheep, goats, swine, domesticated fowl, and any fur-bearing animal bred and maintained commercially or otherwise, within pens, cages and hutches.

(T) **“Livestock owner”** means a person or legal entity exercising an ownership right to livestock

(U) **“Menaces,” “menacing,”** or **“menaced”** means lunging, growling, snarling, or other behavior by a dog that would cause a reasonable person to fear for the person’s safety.

(V) **“Owner”** has the same meaning given to “dog owner.”

(W) **“Peace officer”** has the meaning given in ORS 161.015.

(X) **“Person”** means any natural person, association, partnership, firm or corporation.

(Y) **“Pet”** means any animal that is owned or possessed by a person for companionship, other than livestock or poultry.

(Z) **“Physical control device”** means a collar or harness connected to a leash or tether, made of material sufficiently strong and durable to prevent the dog on which it is used from escaping or leaving the immediate physical control of it’s owner.

(AA) **“Potentially dangerous dog”** means any dog that has been found, pursuant to an investigation conducted under this Chapter, to have engaged in any behavior specified in LCC 560.640.

(BB) **“Redeemed”** means the Director returns a dog to the dog’s owner or keeper.

(CC) **“Released”** means the Director releases a dog to a person other than the dog’s owner or keeper.

(DD) **“Running at large”** means:

(1) A dog that

(a) is on private real or personal property without the permission of the owner or person entitled to possession of the real or personal property; and

(b) not in the company of and under the control of its owner or keeper; or

(2) A dog that

(a) is on premises open to the public or is unsecured on or in a vehicle that is on premises open to the public; and

(b) not in the company of and under the control of its owner or keeper.

(3) The term does not include:

(a) use of a dog under the supervision of a person in order to legally hunt, chase, or tree wildlife;

(b) use to control or protect livestock; or

(c) use in other related and generally accepted reasonable and prudent agricultural activities.

(EE) **“Under the control of its owner or keeper”** means that the owner or keeper of the dog is maintaining the dog in such a manner that the dog is rendered unable to bite, injure, wound, kill, or chase any person, pet or domestic animal or livestock, and that the dog is restrained by a physical control device.

(FF) **“Vehicle”** means any device in, upon, or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means.

(GG) **“Wound”** means that a dog, by physical contact with a person, pet, or domestic animal, causes damage to the person, pet, or domestic animal.

[Adopted 89-495 §1 eff 9/27/89 formerly 5.40.210, 5.45.015, and 5.46.107; amd 91-431 §3 eff 7/1/91; amd 98-100 §2 eff 4/1/98; amd 98-356 §1 eff 8/19/98; amd 99-129A §3 eff 6/8/99; 00-482 §1 eff 8/23/00; amd 2010-330 §1 eff 10/13/10]

560.120 Dog control district established

(A) Linn County by its Board of Commissioners hereby declares pursuant to ORS 609.030 that Linn County is a dog control district.

(B) The provisions of ORS 609.010 to 609.190 shall not be construed to limit the powers of Linn County to adopt ordinances and regulations, relating to the control of dogs.

(C) The provisions of this Chapter shall not apply within the limits of a city which has its own dog licensing and control program.

(D) The Board may appoint from time to time dog control officers and deputy dog control officers to enforce the provisions of this Chapter. Such officers have all powers granted by this Chapter.

(E) The Board elects to act as the board of supervisors of the dog control district.

[Adopted 98-100 §2 eff 4/1/98 (adopting and amending ORS 609.010, 609.030 (4) and (5); amd 2010-330 §1 eff 10/13/10)]

560.130 Director of the dog control department; power and duties

(A) The duties of the Director shall be:

(1) to enforce all of the County and State laws relating to the control of dogs within the County, including that of making arrests, and shall perform such other duties as the County governing body may assign to the Director;

(2) to maintain or contract for the maintenance of an animal shelter where all animals which are subject to impoundment may be safely and humanely kept;

(3) to issue licenses; and

(4) to collect any costs, fees and charges provided by this Chapter and ORS Chapters 609 and 433.

(B) This section shall be broadly construed to allow the Director the authority to carry out the duties of the Director, and the dog control officers and employees of the Department, under the direction and control of the Director, shall be deemed to have the authority to carry out the duties of the Director.

[Adopted 86-120 §1 eff 4/30/86 (formerly 5.45.020; adopting and amending ORS 609.030 (3)); amd 98-100 §2 eff 4/1/98; amd 2010-330 §1 eff 10/13/10]

560.140 Dog Control Fund

(A) All funds derived from licensing and other fees, fines, and costs required to be paid under the authority of this Chapter and ORS 433.340 to 433.390 shall be paid to the Linn County Treasurer and maintained in an account within the County General Fund known as the Dog Control Fund.

(B) All funds collected under subsection (A) of this section shall be expended as provided for by law. At the end of a fiscal year any amount of money in the fund determined by the Board to be in excess of the requirements of the Dog Control Fund may be placed in the general fund of the County.

[Adopted 86-120 §1 eff 4/30/86 (formerly 5.45.030; adopting and amending ORS 609.110); amd 98-100 §2 eff 4/1/98; amd 2010-330 §1 eff 10/13/10]

560.150 Citation authority

(A) All dog control officers appointed as enforcement officers by order of the Board shall have the primary authority to enforce violations of

this Chapter including, but not limited to, LCC 560.160, 560.170, 560.210, 560.220, 560.230, 560.240, 560.320, 560.330, 560.340, 560.350, 560.410, 560.415, 560.480, 560.490, 560.522, 560.530, and 560.670, as provided by LCC Chapter 240, and may enforce offenses under ORS Chapter 609.

(B) Peace officers may enforce violations of LCC 560.160, 560.170, 560.210, 560.230, 560.320, 560.330, 560.350, 560.410, 560.415, 560.480, 560.490, 560.522(D), 560.530, or 560.670 occurring within the territorial limits they serve, and have authority to issue citations pursuant to the Linn County Code Enforcement Code, LCC Chapter 240. Nothing in this subsection shall be construed to limit a peace officer's authority to enforce offenses under ORS Chapter 609.

(C) A dog control officer may enforce LCC 560.230 by issuing citations for offenses under LCC 560.900, or may pursue an action under ORS 609.341 and 609.992, but not both.

(D) For any single offense, dog control officers appointed by the Board and peace officers may elect to issue a citation under this Chapter or ORS Chapter 609, but not both.

[Adopted 86-120 §1 eff 4/30/86; amd 88-536 §4 eff 10/12/88; amd 91-431 §4 eff 7/1/91 (formerly 5.45.100; amd 98-100 §2 eff 4/1/98; amd 99-129A §3 eff 6/8/99; amd 2010-330 §1 eff 10/13/10)]

560.160 Entry onto private land

(A) The dog control officer or a deputy officer may enter onto private land in the course of enforcing the provisions of this Chapter, but shall not enter any building or dwelling without first obtaining the authorization of the owner or occupant of the premises or an administrative search warrant.

(B) No person shall fail to allow the entry of a person acting under authority of subsection (A) of this section.

[Adopted 86-120 §1 eff 4/30/86 (formerly 5.45.110; amd 98-100 §2 eff 4/1/98)]

560.170 Interference with dog control officer prohibited

(A) No person shall interfere with the Dog Control Officer or any deputy dog control officer while in the course of their duties.

(B) As used in this section, "interfere" means:

(1) to prevent, or attempt to prevent, a dog control officer from performing the duties of the dog control officer under this Chapter;

(2) to use or give a false or fictitious name, address, or date of birth to a dog control officer for the purpose of the officer's issuing or serving the person a citation under this Chapter; or

(3) to fail or refuse to give a name, address, or date of birth to a dog control officer for the purpose of the officer's issuing or serving the person a citation under this Chapter.

[Adopted 86-120 §1 eff 4/30/86 (formerly 5.45.120); amd 2010-330 §1 eff 10/13/10]

560.180 Hearing procedures by the Board

(A) *Generally.* The Board shall conduct hearings related to this Chapter and required to be heard by the Board under this Chapter or ORS Chapter 609 according to the rules of procedure set forth in this section.

(1) The hearing conducted pursuant to this section shall be informal and open to the public.

(2) No rules of evidence or civil procedure shall apply except as expressly provided in this section.

(3) The Board may establish other reasonable parameters in addition to, or in lieu of, the provisions of this section for the conduct of the hearing to ensure an orderly and complete presentation of the case.

(4) Not more than one person, whether an attorney or the party, shall present the case to the Board on behalf of each party.

(5) The Board may ask questions of any party or witness at any time.

(6) The parties to the hearing are the County, the injured person, and the dog owner.

(7) The record shall contain: the written notice of intent to appeal; the Dog Control Department's Incident Report; any staff reports; any affidavits made pursuant to LCC 560.220 (B), 560.630 (A) (2), and (D) (2); any agreements made pursuant to LCC 560.670 (E); the minutes of the hearing; any written or electronically taped

(video or aural) evidence submitted to and admitted into the record by the Board; and an electronic tape of the hearing if one is made.

(8) Ex parte contact is governed by LCC 400.275.

(9) If the dog owner is on notice of a determination of the Director made pursuant to this Chapter, the Board, at any time prior to making a final decision under this section, may cure any defects in the Director's determination or make a determination different from the Director's.

(B) *Duties of the Chairperson.* The Chairperson shall preside over the hearing, administer an oath or affirmation to each witness, rule on motions, and, subject to this section, rule on objections to admissibility of evidence.

(C) *Duties of the Board of Commissioners.* The function of the Board shall be to make determinations on questions of fact, to apply the provisions of this Chapter to its determinations of fact, and to sign orders resulting from hearings held pursuant to this section. At least two members of the Board must concur in any determination of fact that is relied on and required in order to make a final decision.

(D) *Duties of the Dog Control Authority.* The County shall be the party to the proceeding having the initial burden of proof. A Dog Control Officer shall present the County's case. If the dog owner is represented by counsel, the District Attorney, or other attorney-at-law designated by the Board, may present the County's case.

(E) *Electronic Recording.* Minutes shall be kept of the hearing and an audio tape recording of the hearing may be made.

(F) *Conduct of Hearing.* Unless the Chairperson for good and sufficient reason otherwise directs, the hearing will proceed in the following order;

(1) The Chairperson shall call the hearing to order, announce the subject matter and procedure for the hearing, and identify the parties;

(2) The Chairperson shall ask the members of the Board to declare any conflicts of interest or ex parte contacts;

(3) *Opening statements.* The parties shall be allowed an opportunity to present opening statements in the order set forth in this paragraph.

(a) The County shall concisely state its case and the issues to be tried;

(b) the injured person then may state any further matter it intends to present;

(c) the dog owner then, in like manner, shall state its case based upon any defense or counterclaim or both.

(4) *Presentation of evidence.* The parties shall put on their evidence in the following manner:

(a) The County shall present its case in chief, and when it has concluded, the injured person shall do likewise; then, the dog owner shall present its defense and its counterclaims, if any.

(b) The parties respectively then may present evidence limited to the rebuttal of evidence admitted in subparagraph (a) of this paragraph, unless the chairperson in furtherance of justice permits them to present evidence upon the original cause of action, defense, or counterclaim and if so admitted the non-presenting parties shall be allowed an opportunity to rebut the new evidence.

(5) *Closing arguments.* The parties shall be allowed an opportunity to present closing arguments at the conclusion of the evidentiary hearing in the following order; County, injured person, and dog owner. The County shall then have an opportunity to reply to the closing argument of the dog owner, but not otherwise.

(G) *Evidence.*

(1) Evidence of a type commonly relied upon by reasonably prudent persons in conduct of their serious affairs shall be admissible. Hearsay evidence is admissible if it is "of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs," i.e., the evidence must be reliable. In any event, a parent or legal guardian of a minor child or incapacitated person shall be allowed to present testimony on behalf of that minor child or incapacitated person. For

purposes of this subsection a minor child is a child that is less than 18 years of age.

(2) Irrelevant, immaterial or unduly repetitious evidence shall be excluded.

(3) The rules of privilege found in ORS 40.225 to 40.295 will apply. A witness must invoke a privilege in order for the privilege to apply.

(4) Objections to evidentiary offers may be made and shall be part of the record.

(5) Any part of the evidence may be received in written form.

(6) Documentary evidence may be received in the form of copies, or excerpt if the document is lengthy provided that a copy of the full document is provided to an opposing party upon that party's request.

(7) All offered evidence, not objected to and sustained by the Board, will be received by the chairperson subject to the power to exclude irrelevant, immaterial or unduly repetitious matter.

(8) All offered evidence, other than oral testimony, shall be marked and numbered as an exhibit, and retained by the Board as part of the record of the case. The exhibits shall be marked in such a manner to make it clear by the marking which party offered the evidence. For example, the Department's exhibits could be marked as exhibits 1-100, the injured party's exhibits 200-299, and the dog owner's exhibits 300-399. A party offering evidence may substitute an accurate copy for an original document, if the copy, in the opinion of the chairperson, adequately depicts the contents of the original. The County may destroy any exhibit after 180 days has elapsed after the conclusion of all proceedings and appeals therefrom, unless such exhibit has been returned to the party who offered it upon the party's motion.

(9) Evidence objected to may be provisionally received by the chairperson with rulings on its admissibility or exclusion to be made in consultation with the Board at the time of deliberations.

(10) Testimony must be taken upon oath or affirmation of the witness from whom

received. The chairperson presiding at the hearing shall administer oaths or affirmations to witnesses.

(11) The burden of presenting evidence to support a fact or position in a hearing rests on the proponent of the fact or position.

(12) *Judicial and official notice.*

(a) The Board may take "judicial notice" of judicially cognizable facts or law under ORS 40.060 to 40.090.

(b) The Board may also take "official notice" of general, technical or scientific facts within the specialized knowledge of any member of the Board.

(c) Parties must be notified prior to the final decision of material judicially or officially noticed, and they must be afforded an opportunity to contest the facts or law so noticed.

(d) However, Board members may utilize their experience, technical competence and specialized knowledge in the evaluation of the evidence presented to them without giving notice or placing the material in the record.

(H) *Decision.* Following the close of the hearing, the Board shall deliberate, considering all relevant evidence in the record and other pertinent factors, shall make findings of fact, and shall by concurrence of at least two members, based upon substantial evidence, render a decision. The decision may:

(1) affirm, modify, or deny the Director's determination made under this Chapter, including but not limited to the Dangerous Dog Code, or make a determination under the Livestock Injury Code;

(2) establish damages pursuant to LCC 560.540;

(3) establish a penalty or sanction be imposed, pursuant to LCC 560.516, or any provision of this Chapter; and

(4) order damages proved to be paid to the injured person and that the payment be made by the time set in the order.

(I) *Form of the decision.* A final written order signed by two or more members of the Board, containing the final decision and findings

of fact supporting the final decision shall be issued. The decision is effective upon signing by the Board.

(J) *The Record.* In addition to the items required by paragraph (7) of subsection (A) of this section, the record of the hearing shall consist of the request for hearing, the final order of the Board, the audio tape recording of the hearing, and such evidence as is offered by a party and accepted by the Board. Except for facts of which the Board takes “judicial notice” or “official notice”, as provided in paragraph (12) of subsection (G) of this section, only evidence offered by a party and received, and not excluded, by the Board may be considered by the Board in determining the factual issues.

(K) The final decision of the Board may be reviewed by the Circuit Court of Linn County by filing a writ of review pursuant to ORS Chapter 34. At the time the owner files such writ of review, the owner shall file with the Board a notice of such filing.

[Adopted 86-120 §1 eff 4/30/86; amd 89-495 §2 eff 9/27/89 (formerly 5.45.130; amd 98-100 §2 eff 4/1/98; amd 98-356 §1 eff 8/19/98; amd 99-129A §3 eff 6/8/99; 00-482 §1 eff 8/23/00; amd 2010-330 §1 eff 10/13/10]

[LCC 560.161 to 560.199 are reserved for future use]

III. DOG LICENSING CODE

560.200 Title; Dog Licensing Code

This Subchapter, LCC 560.200 to 560.299, shall be known and may be cited as the “Linn County Dog Licencing Code” or simply as the “Dog Licensing Code.”

[Adopted 98-100 §2 eff 4/1/98; amd 99-058 §4 3/3/99]

560.210 Dog licenses, tags, and fees

(A) *License.* Every person owning or keeping any dog which has a set of permanent canine teeth or is six months old, whichever comes first, shall, no later than 30 days after the person becomes owner or keeper of the dog, procure from the county a license for the dog by paying to the county an annual license fee. The fee for the license shall be determined by the Board in

such amount as it finds necessary to carry out this Chapter. The license fee shall be set by the Board in the Linn County Fee Schedule.

(B) If the person fails to procure a license within the time provided by this section, the Board may prescribe a penalty fee in an additional sum to be set by the governing body to be paid at the time of procuring the license.

(C) The Director shall, at the time of issuing a license, supply the licensee, without additional charge, with a suitable identification tag, which shall be fastened by the licensee to a collar and kept on the dog at all times when not in the immediate possession of the licensee.

(D) The license fees in subsection (A) of this section do not apply to dogs that are kept primarily in kennels and are not permitted to run at large. The Board may establish a separate license for dogs that are kept primarily in kennels when the dogs cease to be taxed as inventory under ORS 307.400, the fee for which shall be set annually by order of the Board.

(E) No license fee shall be required to be paid for any dog covered by LCC 560.220.

(F) The Director shall keep a record of dog licenses.

(G) Notwithstanding any other provision of this Chapter, when the owner or keeper of a dog obtains a license for the dog, that license is valid and is in lieu of a license for the dog required by any other city or county within this State, for the remainder of the license period:

(1) If the owner or keeper of the dog changes residence to a city or county other than Linn County; or

(2) If the owner or keeper of the dog transfers ownership or possession of the dog to a person who resides in a city or county other than Linn County.

(H) Notwithstanding any other provision of this Chapter, when the owner or keeper of a dog obtains a license for the dog while residing in any other city or county within this State, that license is valid and is in lieu of a license for the dog required by Linn County, for the lesser of the remainder of the license period or one year:

(1) If the owner or keeper of the dog changes residence to Linn County from a city or county other than Linn County; or

(2) If the owner or keeper of the dog transfers ownership or possession of the dog to a person who resides in Linn County from a city or county other than Linn County.

(I) No owner shall fail:

(1) to procure a license required under this section, or

(2) to keep such license fastened to a collar and kept on the dog at all times when not in the immediate possession of the licensee.

(J) At the option of the Director, the Director may require that every owner, at the time of and as a condition to obtaining or renewing a license, present the dog for photographing by the Department or otherwise provide the Department with a current photograph of the dog that meets requirements of the Director. If the Director exercises this option the Director shall require all owners to comply with such requirement and the Director shall maintain such photographs as part of the record of dog licenses, provided however that the Director may discontinue requiring photographs if the Director determines that collection and maintenance of photographs is impracticable.

[Adopted 86-120 §1 eff 4/30/86 (adopting ORS 609.100); 00-482 §1 eff 8/23/00; amd 2010-330 §1 eff 10/13/10]

560.220 Exception for assistance dogs for physically impaired persons

(A) Notwithstanding LCC 560.210, the Director shall not charge a fee to license a dog owned and used by a physically impaired person as an assistance animal, as defined in ORS 346.680.

(B) A license shall be issued for a dog covered by subsection (A) of this section upon the owner filing with the Department an affidavit attesting, and showing facts to the satisfaction of the Director, that such dog comes within the exemption in subsection (A). The Director may require that the affidavit be submitted on forms provided by the Department and approved by the Director.

(C) If the Director fails or refuses to issue a license to a person covered by this section, after an affidavit is filed with the Department, the owner may appeal to the Board for a hearing under LCC 560.180. Such a hearing shall be held within a reasonable time.

(D) No owner shall file an affidavit described in subsection (B) of this section for a dog that does not in fact qualify as an assistance animal as defined in ORS 346.680.

[Adopted 86-120 §1 eff 4/30/86 (adopting ORS 609.105); amd 2010-330 §1 eff 10/13/10]

560.230 Permit required to keep exotic animals

(A) As used in this section, “exotic animal” means:

(1) Any lion, tiger, leopard, cheetah, ocelot or any other cat not indigenous to Oregon, except the species *Felis catus* (domestic cat);

(2) Any monkey, ape, gorilla or other nonhuman primate;

(3) Any wolf or any canine not indigenous to Oregon, except the species *Canis familiaris* (domestic dog); and

(4) Any bear, except the black bear (*Ursus americanus*).

(B) No person may keep an exotic animal in Linn County unless, before acquiring the animal, the person possesses, or has applied for and not been refused or has not had revoked or suspended, a valid State Department of Agriculture permit for such animal issued pursuant to ORS 609.335. No person may keep an exotic animal in Linn County for more than 30 days after the expiration, revocation, or suspension of such a permit.

(C) Nothing in this section shall apply to:

(1) A wildlife rehabilitation center operated under a valid permit issued by the Oregon State Fish and Wildlife Department pursuant to ORS Chapter 497; or

(2) A facility operated under a valid license issued by the United States Department of Agriculture pursuant to the federal Animal Welfare Act of 1970 (7 U.S.C. 2133 or 2136).

[Adopted 86-120 §1 eff 4/30/86 (adopting ORS 609.305, 609.319 and 609.315); amd 2010-330 §1 eff 10/13/10]

560.240 Wolf-dog hybrids

(A) Animals declared by the owner to be a wolf-dog hybrid shall be licensed as provided by this Subchapter, but are exempt from the requirement of a rabies vaccination. In the event that a rabies vaccine becomes licensed for use in wolf-dog hybrids, this exemption is null and void. All other animal regulations of this Chapter apply to wolf-dog hybrids.

(B) No owner of a dog shall declare or represent that the owner's dog is a wolf-dog hybrid to avoid a rabies vaccination.

[Adopted 99-058 §4 3/3/99; amd 2010-330 §1 eff 10/13/10]

[LCC 560.241 to 560.299 are reserved for future use]

IV. DOG KENNEL CODE

560.300 Subchapter title; Dog Kennel Code

This Subchapter, LCC 560.300 to 560.399, shall be known and may be cited as the "Linn County Dog Kennel Code" or simply as the "Dog Kennel Code."

[Adopted 85-001 §2 eff 2/6/85 (formerly 5.40.220); amd 99-058 §4 3/3/99]

560.310 Statement of purpose

(A) The purpose of LCC 560.300 to 560.399 is to protect the health, safety and welfare of the citizens of Linn County by providing for the control and protection of dogs within Linn County.

(B) LCC 560.300 to 560.399 is enacted under the authority provided in ORS 203 and ORS 609, and particularly ORS 203.035 and 609.015.

[Adopted 85-001 §1 eff 2/6/85 (formerly 5.40.100); amd 2010-330 §1 eff 10/13/10]

560.320 Application for a kennel license

(A) No owner or operator of a kennel may keep a dog unless that owner or operator first applies for and obtains a kennel license.

(B) The annual kennel license shall be for a 12 month period beginning on the first day of the month following the issuance, and shall be in an amount set by the Board. A late penalty, as set by the County Fee Schedule, in addition to the

license fee will be assessed on renewals of a kennel license if the renewal fee is not submitted within 30 days after license expiration.

(C) The provision of ORS 609.100(3) adopted by LCC 560.010 is specifically superseded by this section.

[Adopted 85-001 §4 eff 2/6/85; amd 91-431 §2 eff 7/1/91 (formerly 5.40.300); amd 98-100 §2 ef 4/1/98; amd 2010-330 §1 eff 10/13/10]

560.330 Requirements for a kennel license

(A) All applicants and holders of a kennel license must meet the requirements set forth in subsection (B) of this section.

(B) *Requirements for kennel license.*

(1) All dogs sheltered at a kennel which have permanent canine teeth or which are more than six (6) months of age shall have rabies shots. The applicant must furnish written proof for each dog that the shots have been administered. The applicant must maintain written records of all rabies shots at the kennel. The records must be available for inspection by the Department or law enforcement officials upon request.

(2) The applicant must be the owner of all dogs registered under the kennel license.

(3) The kennel must consist of a structure designed or capable of sheltering the dogs from the elements. The structure must be in good repair and be capable of containing the dogs and preventing the entrance of other dogs or animals.

(4) The issuance of a kennel license is expressly conditioned on the granting of permission from the applicant for Linn County Dog Control officers, and other Linn County officials, to inspect the premises of the kennel and to inspect all dogs confined in a kennel at any reasonable time.

(5) The owner must comply with LCC 560.300 to 560.399 and all other State laws and County Code related to the keeping of dogs.

(C) No holder of a kennel license shall fail to meet the requirements of subsection (B) of this section.

[Adopted 85-001 §5 eff 2/6/85 (formerly 5.40.310); amd 98-100 §2 eff 4/1/98; amd 2010-330 §1 eff 10/13/10]

560.340 Denial and revocation of a kennel license

(A) *Basis for denial or revocation.* A kennel license required by LCC 560.300 to 560.399 may be denied or revoked for any of the following reasons:

(1) Failure to comply substantially with any provision of LCC 560.300 to 560.399.

(2) Failure to comply with any State or federal law, rule, order or regulation pertaining to any activity relating to dogs.

(3) Furnishing false information on an application for a kennel license under LCC 560.300 to 560.399.

(B) *Appeal of denial of or conditions imposed on a license.* If an application for a kennel license is denied, or approved subject to conditions, the applicant may appeal the denial or conditional approval to the Board by filing a written notice of intent to appeal within fourteen (14) days of the date denial or conditional approval was mailed to the applicant by certified mail.

(C) *Complaint investigation; notice.* The Director shall investigate any complaint concerning licensed facilities and, upon determination that a license should be revoked, shall serve written notice upon the licensee by certified mail and schedule a hearing at which the licensee may appear and be heard. The hearing shall be informal and open to the public, and notice of the hearing shall be mailed to the licensee by certified mail no later than ten (10) days before the date of the hearing.

(D) *Appeal of revocation of license.* If after a hearing the Director confirms the revocation, the holder of a revoked license may appeal the revocation to the Board by filing a written notice of intent to appeal with the Director within fourteen (14) days after notice of the Director’s determination of revocation was mailed by certified mail. Failure to file a timely notice of intent to appeal shall terminate any appeal right, and the Director’s decision revoking the license shall not be reviewable otherwise.

(E) *Hearing on appeal; notice.* A hearing upon an appeal under subsection (B) or (D) of this section shall be initiated by the Board within thirty (30) days of receipt of the notice of intent to appeal, with notice of the date and time of the hearing to be mailed to the applicant by certified mail no later than ten (10) days prior to the hearing, provided, however, that the Board may refer the matter to a hearings officer for the taking of evidence, making findings of fact and law, and/or making recommendations to the Board, which shall initiate action on any recommendations within the time fixed in this subsection. The hearing shall be informal and open to the public.

(F) *Review of Board decision.* A decision of the Board resulting from any appeal under this section shall be reviewable only as provided in ORS 34 and not otherwise.

[Adopted 85-001 §6 eff 2/6/85 (formerly 5.40.400); amd 98-100 §2 ef 4/1/98; amd 99-129A §3 eff 6/8/99; amd 2010-330 §1 eff 10/13/10]

560.350 Disposition of a dog after revocation of license

(A) *Disposition of dog.* A person whose kennel license is revoked as provided in this Dog Kennel Code shall, within ten (10) days, dispose of all dogs owned by that person, either by transfer of ownership or otherwise, subject to the restrictions of subsections (B) and (C) of this section.

(B) No person whose license is revoked may transfer ownership of a dog to a person residing on the property where the kennel is located.

(C) No person may continue to shelter a dog on the property where the kennel is located.

(D) No person shall fail to comply with subsection (A) of this section.

[Adopted 85-001 §6 eff 2/6/85 (formerly 5.40.400) (G); amd 98-100 §2 ef 4/1/98; amd 2010-330 §1 eff 10/13/10]

560.360 License reapplication

(A) No person whose kennel license is revoked may apply for a kennel license under LCC 560.210(D) or 560.300 to 560.399 for a period of 365 days from the day of the revocation of the license.

(B) No person whose kennel license is revoked shall own or possess a dog required to be licensed under this Chapter without first obtaining a license under LCC 560.210 or 560.300 to 560.399.

[Adopted 85-001 §6 eff 2/6/85 (formerly 5.40.400 (G)); amd 98-100 §2 ef 4/1/98; amd 2010-330 §1 eff 10/13/10]

560.370 Conformance with other law

Except as otherwise expressly provided, LCC 560.300 to 560.399 shall in no way be a substitute for, or eliminate the necessity of conforming with, any and all State and federal laws, rules, and regulations, and other ordinances, which are now or may be in the future in effect, relating to the requirements provided in LCC 560.300 to 560.399.

[Adopted 85-001 §7 eff 2/6/85 (formerly 5.40.500); amd 2010-330 §1 eff 10/13/10]

[LCC 560.371 to 560.399 are reserved for future use]

V. DOG NUISANCE CODE

560.400 Subchapter title; Dog Nuisance Code

This Subchapter, LCC 560.400 to 560.499, shall be known and may be cited as the “Linn County Dog Nuisance Code” or simply as the “Dog Nuisance Code.”

[Adopted 98-100 §2 eff 4/1/98; amd 99-058 §4 3/3/99]

560.402 Statement of Purpose

The purpose of LCC 560.400 to 560.499 is to define the offenses of maintaining a dog that is a public nuisance and maintaining a dog that is a dangerous public nuisance, provide for the impoundment of a dog alleged to be a public nuisance or a dangerous public nuisance, and to provide for the redemption, release, or destruction of an impounded dog.

[Adopted 2010-330 §1 eff 10/13/10]

560.405 Dog as a Nuisance

For the purpose of ORS 203.065(3), the behavior described in LCC 560.410(A) and 560.415(A) is hereby declared to be a nuisance.

[Adopted 2010-330 §1 eff 10/13/10]

560.410 Dog as a public nuisance

(A) A dog is a public nuisance, and not a dangerous public nuisance, if the dog:

- (1) Chases vehicles;
- (2) Damages or destroys property of persons other than the owner of the dog;
- (3) Scatters garbage of persons other than the owner of the dog;
- (4) Trespasses on private property of persons other than the owner of the dog;
- (5) Disturbs any person by frequent or prolonged noises;
- (6) Is running at large; or
- (7) chases, but does not bite, injure, wound, or kill, a pet or a domestic animal.

(B) The owner or keeper of a dog shall not allow the dog to be a public nuisance as described in subsection (A) of this section.

(C) Any person who has cause to believe a dog is being maintained as a public nuisance as described in subsection (A) of this section may complain, either orally or in writing, to the Director. The complaint shall be considered sufficient cause for the Director to investigate the matter and to determine if:

- (1) the owner or keeper of the dog is in violation of subsection (B) of this section; and
- (2) the dog is a dangerous dog or potentially dangerous dog and to take action authorized in this Chapter to protect the public if the dog is determined to be a dangerous dog or potentially dangerous dog.

[Prohibition against running at large adopted by vote of the People of Linn County on 11/7/72 eff 2/3/73; the balance of this section (ORS 609.095) adopted and amended 98-100 §2 eff 4/1/98; amd 99-058 §4 3/3/99; amd 99-129A §3 eff 6/8/99; amd 2010-330 §1 eff 10/13/10]

560.415 Dog as a dangerous public nuisance

(A) A dog is a dangerous public nuisance if the dog:

- (1) has been classified as a dangerous dog under LCC 560.650 but is not under the

control of the County and awaiting disposition under LCC 560.640;

(2) has been classified as a potentially dangerous dog under LCC 560.640 and is not being regulated by the owner in compliance with LCC 560.670;

(3) bites, injures, wounds, kills or chases a person; or

(4) bites, injures, wounds, or kills a pet, or a domestic animal.

(B) The owner or keeper of a dog shall not allow the dog to be a dangerous public nuisance as described in subsection (A) of this section.

(C) Any person who has cause to believe a dog is being maintained as a dangerous public nuisance as described in subsection (A) of this section may complain, either orally or in writing, to the Director. The complaint shall be considered sufficient cause for the Director to investigate the matter and to determine if:

(1) the owner or keeper of the dog is in violation of subsection (B) of this section; and

(2) the dog is a dangerous dog or potentially dangerous dog and to take action authorized in this Chapter to protect the public if the dog is determined to be a dangerous dog or potentially dangerous dog .

[Prohibition against running at large adopted by vote of the People of Linn County on 11/7/72 eff 2/3/73; the balance of this section (ORS 609.095) adopted and amended 98-100 §2 eff 4/1/98; amd 99-058 §4 3/3/99; amd 99-129A §3 eff 6/8/99 (originally numbered as a part of 560.410); 00-482 §1 eff 8/23/00; amd 2010-330 §1 eff 10/13/10]

560.420 Exception to dog as a public nuisance

A dog shall not be considered a public nuisance under LCC 560.410 or a dangerous public nuisance under LCC 560.415 if the dog:

(A) chases, bites, injures, or wounds, a person, pet, or domestic animal wrongfully assaulting the dog or the dog's owner;

(B) bites, injures, or wounds, a person, pet, or domestic animal trespassing upon premises occupied by the dog's owner and the dog bites, injures, or wounds after being provoked by that person, pet, or domestic animal, or

(C) chases a person, pet, or domestic animal trespassing upon premises occupied by the dog's owner.

[Adopted 98-100 §2 eff 4/1/98 (adopting ORS 609.097); amd 99-129A §3 eff 6/8/99; amd 2010-330 §1 eff 10/13/10]

560.425 Action against dog and owner

(A) When any dog is found running at large in Linn County, or when a dog is alleged to be a public nuisance based on one or more behaviors described in LCC 560.410, every chief of police, constable, sheriff or deputy of either, or other police or dog control officer may:

(1) impound the dog; or

(2) cite the owner or keeper to court; or

(3) do both (1) and (2).

(B) When any dog is alleged to be a dangerous public nuisance described in LCC 560.415 , every chief of police, constable, sheriff or deputy of either, or other police or dog control officer shall impound the dog, and may also cite the owner or keeper to court.

(C) The Director may investigate, for a determination under ORS 560.630, any dog impounded under this section.

[Adopted 98-100 §2 eff 4/1/98 (adopting ORS 609.097); amd 99-129A §3 eff 6/8/99; 00-482 §1 eff 8/23/00; amd 2010-330 §1 eff 10/13/10]

560.430 Impounding dogs

(A) All dogs taken up and impounded under this Chapter shall be held in an adequate and sanitary pound to be provided by the County from the general fund or out of funds obtained from dog licenses and from the redemption of dogs so impounded. However, in lieu of the establishment of a dog pound, the County may contract for the care of the dogs.

(B) Impoundment of a dog authorizes the Director to make a determination under LCC 560.600 to 560.699.

(C) Notwithstanding any other provision of this Chapter, any dog impounded for biting a person shall be held for not less than 10 days before disposition, release, or redemption, to determine if the dog is rabid.

(D) If the Director finds, pursuant to LCC 560.600 to 560.699, that a dog is a dangerous dog, the dog shall be impounded until the completion of all appeals, or if no appeal is taken, the time for taking any appeal has passed.

560.440 Redemption of impounded dogs that are not dangerous; fees

(A) If the dog has been impounded, and the Director does not make a determination that the dog is a dangerous dog pursuant to LCC 560.600 to 560.699, the dog may be redeemed or released pursuant to this section.

(B) Subject to subsection (C) of this section, if the owner appears to redeem a dog that is described in subsection (A) of this section, the owner shall, before the dog is redeemed, pay to the County:

(1) a progressive sum, as determined by the County Fee Schedule, for impoundment, based on the number of previous impoundments for the dog; and

(2) the expense of keeping the dog during the time it was impounded; and

(3) if the dog is unlicensed, a sum sufficient for:

(a) the purchase of a license; and

(b) the applicable penalty for failure to have a license; and

(4) any and all fees required if the dog is classified by the Director as a potentially dangerous dog pursuant to LCC 560.600 to 560.699.

(C) If the dog is described in subsection (A) of this section and is not redeemed by the owner, and in the opinion of the Director, the dog is not a threat to the health or safety of persons, pets, domestic animals, or livestock and can be safely kept, the Director may release the dog to a responsible person or organization, other than a research facility or person who breeds or possesses animals for sale to research facilities, upon receiving assurance that the person will properly care for the dog and not allow it to become a nuisance, and upon payment of a sum established by the Board plus the boarding costs accrued during its impoundment, and purchase of a license, if required. The person shall thereafter be

liable as owner of the dog as provided by this Chapter.

(D) The Board may provide for lesser fees, fines, or costs, under this section for certain senior citizens under certain circumstances, based on need or inability to pay.

(E) If a dog may be redeemed or released pursuant to this section, the dog may not be released to a person other than the owner or keeper from impoundment for at least:

(1) three days if the dog is without a license or identification tag; or

(2) five days if it has a license or identification tag.

[Adopted 98-100 §2 eff 4/1/98 (adopting as amended ORS 609.090 (2) and (4); amd 98-356 §1 eff 8/19/98; amd 99-129A §3 eff 6/8/99; 00-482 §1 eff 8/23/00; amd 2010-330 §1 eff 10/13/10]

560.460 Disposing of dogs

(A) A dog shall not be removed from impoundment to be disposed of unless a reasonable attempt to locate and notify the owner of the dog has failed.

(B) *Unclaimed, redeemable dogs.* If no owner appears to redeem a dog within the time set forth in this section and LCC 560.440(E), it may, in the discretion of the Director:

(1) be released pursuant to LCC 560.440 (C); or

(2) be killed in a humane manner.

(C) *Dangerous dogs.* A dog that is determined, pursuant to LCC 560.600 to 560.699, to be a dangerous dog shall be disposed of pursuant to LCC 560.665.

(D) *Potentially dangerous dogs.* A dog that is determined, pursuant to LCC 560.600 to 560.699, to be a potentially dangerous dog shall be disposed of pursuant to LCC 560.667.

(E) *Manner of disposition.* Neither the County nor any facility with which the County has contracted to perform animal control functions, nor any humane society, shall cause a dog or cat to be destroyed except by lethal injection of sodium pentobarbital or other substance approved by the Oregon State Veterinary Medical Examining Board. If a particular dog or cat to be destroyed poses an imminent threat to human or animal life,

making use of lethal injection unsafe or inappropriate, a reasonable and appropriate alternative may be used. The alternative method may be subject to review by the Oregon State Veterinary Medical Examining Board.

[Adopted 98-100 §2 eff 4/1/98 98-100 §2 eff 4/1/98 adopting as amended ORS 609.090 (2) and 609.405); amd 99-129A §3 eff 6/8/99; amd 2010-330 §1 eff 10/13/10]

560.470 Impoundment costs

(A) All costs for impoundment and boarding of the dog, at the rate established by the County Fee Schedule in effect at the time of impoundment, from the time of impoundment until final resolution of the matter, including all appeals, and all damages proved by the Director or Board, shall be the responsibility of the dog owner, and shall be paid to the County before the dog is redeemed or otherwise disposed.

(B) In the event any fees, costs, penalties, or damages proved by the Director or Board are five or more days delinquent, the dog may be killed in a humane manner, unless provided otherwise by a statute or court or Board order.

(C) If the dog's owner is convicted of a violation under this Chapter or under ORS Chapter 609, the dog's owner shall pay to the County all costs incurred in the dog's impoundment, and, unless such costs are paid within ten (10) days of the date when the owner is convicted of the violation, the dog shall be considered abandoned and, in the Discretion of the Director, released or killed in a humane manner. Such disposition of the dog shall not relieve the owner of the owner's responsibility to pay impoundment costs previously incurred.

(D) If a writ of review is filed pursuant to LCC 560.180 (K), the party filing the writ must post with the Director at or before the time of the filing of the writ an amount that is equal to 60 days of impoundment costs as set by the County Fee Schedule.

(E) If a dog is impounded under LCC 560.510(A) and the owner requests a hearing under LCC 560.514, the dog owner must post with the Director at the time of the request for a hearing an amount that is equal to 40 days of

impoundment costs as set by the County Fee Schedule.

(F) If a dog owner appeals a determination of the Director under LCC 560.680, the dog owner must post with the Director, at the time of filing the appeal, an amount that is equal to 20 days of impoundment costs as set by the County Fee Schedule.

(G) If a dog is subject to impoundment as a dangerous dog or potentially dangerous dog pursuant to a city ordinance of a city within Linn County and the dog owner appeals the impoundment or determination with the city, or a court of competent jurisdiction, the dog owner must post with the Director, at the time of filing the appeal, an amount that is equal to 20 days of impoundment costs as set by the County Fee Schedule.

(H) If the determination that the dog is a dangerous dog is upheld on appeal, the dog's owner shall pay:

(1) to the County, all costs incurred in the dog's impoundment and

(2) to the injured person, all damages proved by the Director.

[Adopted 98-100 §2 eff 4/1/98 (formerly 5.40.130 (B) and 5.446.180 (B)); amd 98-100 §2 eff 4/1/98; amd 98-356 §1 eff 8/19/98; amd 99-129A §3 eff 6/8/99; 00-482 §1 eff 8/23/00; amd 2010-330 §1 eff 10/13/10]

560.480 Abandoned, abused, and neglected dogs

No dog owner shall abandon a dog or physically mistreat a dog by abuse or neglect.

[Adopted 98-100 §2 eff 4/1/98]

560.490 Biting dogs to be reported

(A) The owner of a dog which bites a person shall immediately notify the Director and the Linn County Environmental Health Program and shall provide to the Director and the Linn County Environmental Health Program the name and address of the person bitten, if known.

(B) Any person who is bitten by a dog shall immediately notify the Director and the Linn County Environmental Health Program and provide the name and address of the dog owner, if known.

(C) No owner of a dog which bites a person shall fail to provide the notice required in subsection (A).

(D) No person bitten by a dog shall fail to provide the notice required in subsection (B).

[Adopted 98-100 §2 eff 4/1/98; amd 2010-330 §1 eff 10/13/10]

[LCC 560.471 to 560.499 are reserved for future use]

VI. LIVESTOCK INJURY CODE

560.500 Subchapter title; Livestock Injury Code

This Subchapter, LCC 560.500 to 560.599, shall be known and may be cited as the “Linn County Livestock Injury Code” or simply as the “Livestock Injury Code.”

[Adopted 98-100 §2 eff 4/1/98; amd 99-058 §4 3/3/99]

560.505 Statement of purpose

The purpose of LCC 560.500 to 560.599 is to give effect to and supplement the provisions of ORS 609.125 to 609.190, and to implement the mandatory requirements of sections ORS 609.156, 609.158(4), 609.162, and 609.168.

[Adopted 2010-330 §1 eff 10/13/10]

560.507 Definitions

As used in LCC 560.500 to 560.599, the term:

(A) “**Bite**” means that a dog has physical contact with livestock by use of the dog’s mouth or teeth.

(B) “**Chase**” means that a dog follows livestock rapidly and intently, but does not require that the dog has a predatory intent or that the livestock suffers any damage as a result of the dog’s actions.

(C) “**Injure**” means a situation where there is no physical contact between a dog and livestock but the dog’s actions results in damage to the livestock.

(D) “**Kill**” means that a dog’s actions cause the death of livestock.

(E) “**Wound**” means that a dog, by physical contact with livestock, including but not limited to biting, causes damage to the livestock.

[Adopted 2010-330 §1 eff 10/13/10]

560.508 Complaint of injury by injured person; Director predetermination

(A) An injured person may file a complaint described in subsection (B) of this section not later than 30 calendar days after the alleged incident, alleging that a dog has engaged in wounding, injuring, killing, or chasing livestock.

(B) The injured person must set forth in the complaint of injury the grounds and all supporting evidence for such complaint and an identification of the dog sufficient to proceed against a specific dog. The Director may require the injured person to provide such information on forms approved and provided by the Director. The Director, upon a finding that the complaint is supported by the evidence provided, shall make a predetermination whether the dog has engaged in wounding, injuring, killing, or chasing livestock.

(C) The Director shall not consider any complaint filed pursuant to this section not timely filed under subsection (A) of this section.

[Adopted 2010-330 §1 eff 10/13/10]

560.510 Impounding dog that kills or injures livestock; testing dog; killing dog; release; Director predetermination

(A) *Impounding dogs alleged to have engaged in behavior.* Upon finding a dog engaged in wounding, injuring, killing, or chasing livestock, or upon receipt from an injured person of credible evidence that a dog has been so engaged, the dog control officer or other law enforcement officer shall impound the dog under LCC 560.430.

(B) *Testing of the dog.* If the Director has reason to believe that reasonable testing of a dog impounded pursuant to subsection (A) of this section, including but not limited to a fecal examination or examination of the teeth of the dog, will provide substantial further evidence as to whether the dog has been engaged in wounding, injuring, killing, or chasing livestock, the Director

shall provide for the administration of the tests by a licensed veterinarian.

(C) *Director predetermination.* Upon finding a dog engaged in wounding, injuring, killing, or chasing livestock, upon a finding that a complaint is supported by the evidence provided, or after completion of such tests as are administered pursuant to subsection (B) of this section, if any, the Director shall make a predetermination whether the dog has engaged in wounding, injuring, killing, or chasing livestock.

(D) *Disposition of the dog.*

(1) Subject to subsection (E) of this section, if the Director makes a predetermination that the dog has not engaged in wounding, injuring, killing, or chasing livestock, the dog shall be released to its owner and, if the dog had been impounded upon receipt of evidence from a complainant, the complainant shall pay the costs of keeping and testing of the dog during the impoundment.

(2) If the Director makes a predetermination that the dog has engaged in wounding, injuring, killing, or chasing livestock, the Director shall give notice to the owner of the opportunity to request a hearing under LCC 560.514.

(E) *Impounding dogs pending process.*

(1) Notwithstanding LCC 560.430 and 560.440, a dog impounded pursuant to subsection (A) of this section shall not be redeemed nor released until a predetermination is made by the Director pursuant to this section.

(2) This subsection notwithstanding, the Director shall have authority to impound the dog pending completion of all hearings and appeals, if the dog is potentially subject to relocation, adoption, or destruction under LCC 560.516.

(F) *Unity of dog owner and livestock owner.* Notwithstanding anything to the contrary, the provisions of this section, shall not apply to any dog engaged in wounding, injuring, killing, or chasing livestock owned by the dog owner, nor shall a dog control officer or other law enforcement officer be required to impound a dog so engaged if the dog control officer or other law

enforcement officer reasonably believes, based on the information actually know to him, that the livestock is owned by the dog owner.

[Adopted 98-0100 §2 eff 4/1/98 adopting as amended ORS 609.155; amd 2010-330 §1 eff 10/13/10]

560.514 Opportunity to request a hearing

(A) This section implements the required provisions of ORS 609.156 and 609.158(4) in Linn County.

(B) Prior to making a determination whether a dog has killed, wounded, injured or chased livestock, the Board shall provide an opportunity for the dog owner to receive a hearing. The Director shall send notice of the opportunity to request a hearing in accordance with the requirements of this section.

(C) *Written notice of Director predetermination.* Subject to paragraph (2) of this subsection, the Director shall give the owner of the dog written notice of the Director's predetermination within three (3) working days of such predetermination. The notice shall be given by certified mail or personal service.

(1) *Contents of the notice.* The notice shall contain at least the following information:

- (a) a brief summary of the dog's specific behavior and the incident alleged,
- (b) the possible penalties that may be imposed under LCC 560.516, and
- (c) the steps the owner must take under this section to request a hearing, and clearly indicating the date by which a request for a hearing must be delivered to the Director.

(2) *When actual notice is sufficient.* If the Director is unable to give notice to the owner by certified mail or personal service, because to do so is impracticable or because the owner refuses receipt of notice, other forms of notification which result in actual notice of the information required above, shall be sufficient if the Director prepares and maintains an affidavit providing the following information:

- (a) the person or persons notified,
- (b) the date, time, and manner notice was given; and

(c) the contents specified in paragraph (1) of this subsection.

(D) A dog owner must cause a hearing request to be delivered to the Director not later than the 14th calendar day following the sending of notice under subsection (B) of this section. A hearing request will be considered timely delivered only if the request is clearly postmarked or actually received by the 14th calendar day. If a dog owner does not make a timely request for a hearing, the dog owner is conclusively presumed to have admitted the matter alleged and the Director may immediately take action under LCC 560.516. The Director shall notify the dog owner of the Director's determination by delivering or mailing by regular mail a copy to the dog owner, and, if applicable, to the attorney of the dog owner.

(E) If a dog owner requests a hearing under this section, the Board shall hold a hearing pursuant to the procedures in LCC 560.180 within a reasonable time, and shall make a determination whether the dog has killed, wounded, injured or chased livestock.

[Adopted 2010-330 §1 eff 10/13/10;implements ORS 609.156 and 609.158(4)]

560.515 Notice of determination

(A) This section implements the required provisions of ORS 609.158(4) in Linn County.

(B) After a hearing and determination, the Board shall cause to be delivered to the dog owner notice of its determination, and of any civil penalties or other measures imposed, by delivering or mailing by regular mail a copy to the dog owner and, if applicable, the attorney of the dog owner.

[Adopted 2010-330 §1 eff 10/13/10;implements ORS 609.158(4)]

560.516 Guidelines for imposing remedial measures, civil penalties, or other sanctions

(A) This section implements the required provisions of ORS 609.162 in Linn County.

(B) If the County determines under LCC 560.514, whether by the Board in a hearing requested by the dog owner or by the Director if no hearing is requested in a timely manner, that a

dog has engaged in killing, wounding, injuring or chasing livestock, the County shall take action in accordance with the following:

(1) If the dog has engaged in chasing livestock and has not previously killed, wounded, injured or chased livestock:

(a) The County shall take reasonable measures to prevent a recurrence. Reasonable measures include, but are not limited to, requiring that the dog owner take specific measures to adequately confine the dog and provide a notarized written pledge that the owner will prevent the dog from chasing livestock again. Under this subsection, reasonable measures shall include, at a minimum, the measures contained in LCC 560.522; and

(b) The County may impose a civil penalty of not more than \$500.

(2) If the dog has engaged in chasing livestock and has previously killed, wounded, injured or chased livestock, or if the dog has engaged in wounding or injuring livestock and has not previously killed, wounded, injured or chased livestock, the County shall impose a civil penalty of not less than \$250 and not more than \$1,000. In addition to imposing the civil penalty, the County may:

(a) Require the dog owner to surrender the dog for adoption by a new owner approved by the County;

(b) Require the owner to remove the dog to a location where, in the opinion of the County, the dog does not present a threat to livestock; or

(c) Require that the dog be put to death in a humane manner. Before requiring that a dog be put to death under this subparagraph, the County shall make specific findings on the record that other measures are not available, are not adequate to remedy the problem, or are otherwise unsuitable, and shall consider the criteria in LCC 560.524 in making such findings.

(3) If the dog has engaged in wounding or injuring livestock and has previously killed, wounded, injured or chased livestock, or if the dog has engaged in killing livestock and has not

previously killed livestock, the County shall impose a civil penalty of not less than \$500 and not more than \$1,000. In addition to imposing the civil penalty, the County shall:

(a) Require the dog owner to remove the dog to a location where, in the opinion of the County, the dog does not present a threat to livestock; or

(b) Require that the dog be put to death in a humane manner.

(4) If the dog has engaged in killing livestock and the dog has previously killed livestock, the County shall impose a civil penalty of not less than \$500 and not more than \$1,000. In addition to imposing the civil penalty, the County shall require that the dog be put to death in a humane manner.

(C) In establishing the history of a dog for purposes of this section the County shall consider all known determinations involving the dog or owner by any court, or by a governing body, official, or agency of any local or state government, without regard to where or when the incident occurred.

[Adopted 2010-330 §1 eff 10/13/10;implements ORS 609.162]

560.518 Microchip identification of dog

(A) This section implements the required provisions of ORS 609.168 in Linn County.

(B) The County shall implant an identifying microchip into a dog described in LCC 560.516 that is not put to death. Implantation shall be made prior to any adoption or relocation of the dog and shall be made in accordance with any standards adopted by rule by the State Department of Agriculture. The County shall forward the microchip information and the record of the dog to the State Department of Agriculture.

(C) The County may charge reasonable fees, set by the County Fee Schedule, to the dog owner to cover the cost of conducting and administering the microchip implantation program.

[Adopted 2010-330 §1 eff 10/13/10;implements ORS 609.168]

560.520 Rebuttable presumption that dog kills or injures livestock

A rebuttable presumption shall arise that a dog has been engaged in wounding, injuring, and killing, livestock within the meaning of LCC 560.510 and 560.570 if:

(A) The dog is found chasing livestock not the property of the owner of the dog in an area where freshly damaged livestock are found;

(B) The dog is found feeding upon a warm carcass of a livestock animal;

(C) An examination of the dog's feces indicates ingestion of portions of the anatomy or covering of the anatomy of livestock by the dog; or

(D) Portions of the anatomy or covering of the anatomy of livestock are found on the teeth of the dog, unless the dog is regularly used for the purpose of herding sheep.

[Adopted 98-100 §2 eff 4/1/98 adopting ORS 609.157; amd 2010-330 §1 eff 10/13/10]

560.522 Reasonable measures to prevent a recurrence of injury to livestock

(A) Any dog determined to have engaged in killing, wounding, injuring, or chasing livestock, that is not put to death, shall, in addition to the measures of LCC 560.516, be subject to the requirements of this section.

(B) *Regulations.*

(1) The owner shall physically restrain the dog to prevent it at all times from:

(a) interfering with the public's legal access to the property where the dog is kept;

(b) interfering with the public's use of any public sidewalk, roadway, or property adjoining the property where the dog is kept, or where the dog is allowed to be; and

(c) having access to any public sidewalk, roadway or property adjoining the property where the dog is kept or any other portion of the property from which the public is not excluded.

(2) The owner shall not allow the dog to be off the owner's premises when not restrained by a physical control device.

(3) The owner shall fasten to a collar and keep on the dog at all times such tag as may be issued by Linn County, identifying the dog as a livestock injury dog.

(4) If expressly required by the County, the owner shall submit the dog to be tattooed, identifying the dog as a livestock injury dog. The owner shall not remove such tattoo from the dog at any time.

(5) The owner shall present the dog for photographing by the Director, if the dog has not been photographed while impounded.

(6) The owner shall pay an annual fee established by the County Fee Schedule at the time the tag described in this subsection is issued and a like fee each year thereafter on or before the dog license renewal date, so long as the dog remains within Linn County. This fee shall be in addition to any other license fee.

(7) The owner shall notify the Director by certified mail where the dog is kept within ten (10) days of any change.

(8) The owner shall post warning signs, supplied by the Director, at the location where the dog is kept. The signs shall be posted in conspicuous places visible from each public sidewalk or road that adjoins the property or, if no such public sidewalk or road adjoins the property, then at each boundary line of the property where access is provided to the property. The owner of the dog shall pay a sign fee in an amount set by the annual fee schedule for the warning signs.

(C) *Redemption, release, transfer.* A dog subject to this section may not be redeemed by the dog's owner or released, transferred, sold or given to another person by the owner except in compliance with this subsection.

(1) A livestock injury dog may be redeemed by the dog's owner, or released, transferred, sold, or given to another person by the owner only if the County, owner, and receiver of the dog, if any, first execute a written agreement as described in this subsection. The owner and receiver of the dog, if any, shall:

(a) stipulate to the conditions, restrictions, requirements, and regulations of this

section for continued maintenance of the dog which are for the purpose of protecting the health, safety, and welfare of the people and property of Linn County and of the person to whom transferred or where relocated; and

(b) agree to defend, indemnify, and hold harmless the County against any claim or award for damage caused by the dog subsequent to signing the agreement; and

(c) agree not to transfer, sell, or give the dog to any other person, unless:

(i) the owner or receiver of the dog can first demonstrate to the satisfaction of the Director that such transfer, sale, or gift would render the dog unable to thereafter behave in such manner that this Chapter regulates, requires, or prohibits and this satisfaction is put in writing signed by the owner and the County; and

(ii) the person to whom the dog is transferred, sold, or given first signs an agreement described in this subsection.

(2) After the agreement is executed by the County and transferor and transferee of a livestock injury dog, the dog may be transferred, sold, or given to another person. The transferring owner shall:

(a) provide a copy of any notices, requirements and regulations imposed on the owner and the owner's dog to the person to whom the dog is transferred, sold, or given; and

(b) provide written proof to the County that such notice has been given; and

(c) provide written proof to the County of the new address of the dog.

(3) A person to whom a dog is transferred, sold, or given shall keep the County informed of the location of the dog as required by this section and comply with this Chapter and any agreement executed thereunder.

(D) No owner of any livestock injury dog or any person to whom a livestock injury dog is transferred, sold, or given pursuant to this section shall fail to comply with any provision or term in this section. Any such failure is a violation of this Chapter.

[Adopted 2010-330 §1 eff 10/13/10]

560.524 Criteria to consider in making a finding that other measures are not available, are not adequate to remedy the problem, or are otherwise unsuitable

(A) Before requiring that a dog be put to death under LCC 560.516(B)(2)(c), the County shall make specific findings that other measures are not available, are not adequate to remedy the problem, or are otherwise unsuitable, and shall consider the criteria in this section in making such findings. In considering the criteria, the County shall take into consideration any aggravating evidence from the injured person and any mitigating evidence from the dog owner.

(B) The County shall consider the following relevant non-exclusive criteria and factors in making the appropriate findings required by this section;

- (1) The dog's age and amenability to training;
- (2) whether any livestock chased, wounded, or injured by the dog were pregnant at the time;
- (3) whether the dog has a history of chasing or threatening livestock, pets, or domestic animals;
- (4) whether the dog has a history of aggressive or threatening behavior towards people;
- (5) whether the dog has been or is currently classified as a potentially dangerous dog under this Chapter;
- (6) whether the dog has a history of running at large;
- (7) whether the dog owner has previously owned dogs that were found to be dangerous or potentially dangerous;
- (8) whether the dog owner has previously owned dogs that were found to be running at large;
- (9) whether the dog owner has previously owned dogs that were allowed to be a nuisance or a dangerous public nuisance;

(10) what steps the dog owner has taken in the past to fence or restrain the dog to prevent its running at large;

(11) whether another unit of government has found the dog to be dangerous or potentially dangerous or any similar classification;

(12) whether the dog owner is willing and able to comply with the measures contained in LCC 560.522;

(13) whether the dog is lawfully licensed and has had a record of being so licensed;

(14) how and under what conditions the dog became loose and was running at large; and

(15) whether any damage to personal or real property has been caused by or is a result of the conduct of the dog.

(C) The County is not required to treat any one of the criteria and factors in subsection (B) of this section as controlling, but may do so.

[Adopted 2010-330 §1 eff 10/13/10]

560.525 Judicial review of County determination

(A) A determination issued under LCC 560.514 after a hearing requested by the owner is subject to judicial review by the Circuit Court for Linn County as provided under ORS 34.010 to 34.100. Notwithstanding ORS 34.070, filing a petition for review shall automatically stay execution of the determination made by the County, however nothing in LCC Chapter 560 nor ORS Chapter 609 shall prevent execution of the determination prior to the filing of a petition for review and proper service upon both the County and the Director.

(B) Notwithstanding ORS 34.030, a petition for review must be filed no later than the 21st day following the date on which the County delivered or mailed its determination in accordance with LCC 560.515.

(C) If the Court reverses the decision of the County, the Court shall make special findings of fact based upon the evidence in the record and conclusions of law indicating clearly all aspects in which the County's procedure or determination was in error.

560.526 Record of penalized owners

(A) When a civil penalty is assessed against a dog owner under LCC 560.516, the County shall supply the State Department of Agriculture with information identifying the dog owner on forms supplied by the State Department of Agriculture, as required by ORS 609.166.

(B) The County may charge a reasonable fee to the dog owner to cover the cost of conducting and administering the dog owner information program under ORS 609.166.

[Adopted 2010-330 §1 eff 10/13/10;implements ORS 609.166]

560.527 Conversion of civil penalty into lien; disposition of proceeds

(A) Moneys collected from a dog owner under LCC 560.516 shall be deposited in the Dog Control Fund under LCC 560.140.

(B) A civil penalty under LCC 560.516 is a penalty against the person owning the dog at the time that the dog killed, wounded, injured or chased livestock. The penalty may not be transferred to a subsequent owner of the dog.

(C) When the County assesses a civil penalty under LCC 560.516, if the amount of penalty is not paid within 21 days after delivery or mailing of the determination, the County may record the penalty with the county clerk of any county of this State. The clerk shall thereupon record in the County Clerk Lien Record the name of the person incurring the penalty. However, the County shall not record a penalty with a county clerk while a petition for judicial review is pending.

(D) In addition to any other remedy provided by law, recording an order in the County Clerk Lien Record pursuant to this section has the effect provided for in ORS 205.125 and 205.126, and the order may be enforced as provided in ORS 205.125 and 205.126.

(E) Imposition of a civil penalty under ORS LCC 560.516 does not prevent the bringing of an action for damages under LCC 560.570. A determination by the County that a dog has killed, wounded, injured, or chased livestock is prima

facie evidence of the matter in a subsequent action under LCC 560.570.

[Adopted 2010-330 §1 eff 10/13/10;implements ORS 609.167]

560.530 Keeping dog with knowledge that it has injured livestock or person

(A) Except as otherwise provided by this Chapter, no person shall own, harbor or keep any dog with knowledge that it has killed or wounded any livestock or, with knowledge that, while off the premises owned or under the control of its owner and while not acting under the direction of its master or the agents or employees of such master, it has killed or seriously injured any person.

(B) However, by way of an affirmative defense, no person shall be liable for harboring or keeping such dog, with knowledge that it has killed or wounded chickens, if the owner pays full damages for the chickens killed or wounded within three days after receipt of a demand for such damages from the owner.

[Adopted 98-100 §2 eff 4/1/98 adopting ORS 609.160; amd 2010-330 §1 eff 10/13/10]

560.540 ORS 609.170, 609.180, & 609.190

The provisions of ORS 609.170, 609.180, and 609.190 shall not apply in Linn County.

[Adopted 98-100 §2 eff 4/1/98 adopting ORS 609.170; amd 2010-330 §1 eff 10/13/10]

[LCC 560.550: Adopted 98-100 §2 eff 4/1/98 adopting ORS 609.180; repealed 2010-330 §1 eff 10/13/10]

[LCC 560.560: Adopted 98-100 §2 eff 4/1/98 adopting ORS 609.190; repealed 2010-330 §1 eff 10/13/10]

560.570 Right of action by owner of damaged livestock

(A) The owner of any livestock which has been damaged by being injured, chased, wounded, or killed by any dog shall have a cause of action against the owner of such dog for the damages resulting therefrom, including double the value of any livestock killed and double the amount of any damage to the livestock.

(B) If one or more of several dogs owned by different persons participate in damaging any livestock, the owners of the respective dogs shall be jointly and severally liable under this section.

The owners of dogs jointly or severally liable under this section have a right of contribution among themselves. The right exists only in favor of an owner who has paid more than the owner's pro rata share of the common liability, determined by dividing the total damage by the number of dogs involved. The total recovery of the owner is limited to the amount paid by the owner in excess of the pro rata share of the owner.

(C) An action brought under this section may be tried as an action at law in any court of competent jurisdiction.

(D) As used in this section:

(1) "**Owner**" means the head of the family of the home where the dog is cared for at the time of the damage.

(2) "**Head of the family**" means any person who has charge or manages the affairs of a collective body of persons residing together, the relations between whom are of a permanent and domestic character.

[Adopted 98-100 §2 eff 4/1/98 adopting ORS 609.140; amd 2010-330 §1 eff 10/13/10]

560.580 Right to kill dog that kills or injures livestock

(A) Except as provided in subsection (C) of this section, any dog, whether licensed or not, which, while off the premises owned or under control of its owner bites, wounds, injures, or kills any livestock not belonging to the owner of such dog, is a public nuisance and may be killed immediately by any person. However, nothing in this section applies to any dog known to be acting under the direction of its owner, or the agents or employees of such owner.

(B) For purposes of this section, if any dog, not under the control of its owner or keeper, is found chasing or feeding upon the warm carcass of livestock not the property of such owner or keeper it shall be deemed, prima facie, as engaged in biting, wounding, injuring, or killing livestock.

(C) No person shall kill any dog for biting, wounding, injuring, killing, or chasing chickens upon a public place, highway, or within the corporate limits of any city.

[Adopted 98-100 §2 eff 4/1/98 adopting ORS 609.150; amd 2010-330 §1 eff 10/13/10]

[LCC 560.581 to 560.599 are reserved for future use]

VII. DANGEROUS DOG CODE

560.600 Subchapter title; Dangerous Dog Code

This Subchapter, LCC 562.600 to 562.699, shall be known and may be cited as the "Linn County Dangerous Dog Code" or simply as the "Dangerous Dog Code."

[Adopted 91-431 §6 eff 7/1/91 (formerly 5.46.100); amd 98-100 §2 eff 4/1/98; amd 99-058 §4 3/3/99]

560.610 Statement of purpose

The purpose of LCC 560.600 to 560.699 is to provide a comprehensive plan for the identification and regulation of dangerous dogs and potentially dangerous dogs in Linn County.

[Adopted 90-131 §1 eff 4/11/90; amd 98-100 §2 eff 4/1/98] (formerly 5.46.210); amd 98-100 §2 eff 4/1/98

560.620 Levels of dangerousness; classifications; dog as a nuisance

(A) Pursuant to LCC 560.630, the Director may classify a dog as a potentially dangerous dog or a dangerous dog.

(B) A classification of a dog pursuant to LCC 560.630 is in addition to, and not in lieu of, any violation proceeding against the dog's owner or keeper. A classification of a dog pursuant to LCC 560.630 is primarily a proceeding against the dog and is remedial in nature, whereas a violation proceeding is primarily against the dog's owner and punitive in nature.

(C) For the Purpose of ORS 203.065(3), any dog classified as a dangerous dog or a potentially dangerous dog pursuant to LCC 560.630 is hereby declared to be a nuisance.

[Adopted 98-100 §2 eff 4/1/98; 00-482 §1 eff 8/23/00; amd 2010-330 §1 eff 10/13/10]

560.630 Determination of level of dangerousness; appeals; restrictions pending appeal

(A) *Director determination.* The Director shall have authority to determine whether any dog is a dangerous dog under LCC 560.650 or a

potentially dangerous dog under LCC 560.640, either upon receipt of a complaint or upon the Director's own will, whether or not the dog has been impounded.

(1) The determination shall be based upon an investigation that includes observation of the dog's behavior by dog control officers or by other witnesses who personally observed the behavior.

(2) If the determination is based solely upon observations or testimony of witnesses other than dog control officers, the witnesses relied upon by the Director to make such determination must first sign affidavits on a form approved by the Director attesting to the observed behavior and must agree to provide testimony regarding the dog's behavior if called upon to do so. A parent or legal guardian of a minor child or an incapacitated person may complete and sign an affidavit and provide testimony on behalf of that minor child or incapacitated person. For purposes of this section a minor child is a child that is less than 18 years of age at the time the affidavit is completed and signed.

(3) Once the Director undertakes an investigation into whether or not a dog should be classified as a dangerous dog or potentially dangerous dog, the Director shall make a determination whether or not the dog is a dangerous dog or potentially dangerous dog. However, nothing in this Chapter shall be construed to require the Director to undertake an investigation of a dog. Receipt of a complaint and impoundment of a dog alone, without any further affirmative action by the Director to perform an investigation under this Dangerous Dog Code, does not constitute the undertaking of an investigation. Enforcement against an owner pursuant to LCC 560.400 to 560.499 does not constitute the undertaking of an investigation under this Dangerous Dog Code.

(B) The Director shall have authority to have a dog determined to be a potentially dangerous dog under this section marked with a permanent identifying tattoo or with a microchip implant.

(C) *Impoundment.* Notwithstanding anything in LCC 560.430 and 560.440, an impounded dog that is investigated as a dangerous dog shall not be redeemed nor released until a determination is made by the Director and the Director finds that the dog is not a dangerous dog. If the Director determines a dog is a potentially dangerous dog, the Director may impound the dog pending completion of all appeals, if the Director has reasonable grounds to believe that the owner of the dog will fail to comply with any of the restrictions specified in the notice of classification during the period of appeal.

(D) *Written notice of Director determination.* Subject to paragraph (2) of this subsection, the Director shall give the owner of the dog written notice of the Director's determination within three (3) working days of such determination. The notice shall be given by certified mail or personal service.

(1) *Contents of the notice.* The notice shall contain at least the following information:

- (a) the dog's specific behavior,
- (b) the dog's classification as a dangerous dog or potentially dangerous dog, and
- (c) if a potentially dangerous dog, the regulations imposed by LCC 560.670.

(2) *Actual Notice is Sufficient.* Other forms of notification which result in actual notice of the information required above, shall be sufficient if the Director prepares and maintains an affidavit providing the following information:

- (a) the person or persons notified,
- (b) the date, time, and manner notice was given; and
- (c) the contents specified in paragraph (1) of this subsection.

[Adopted 98-100 §2 eff 4/1/98 (formerly 5.46.130) amd 98-100 §2 eff 4/1/98; amd 98-356 §1 eff 8/19/98; amd 99-129A §3 eff 6/8/99; 00-482 §1 eff 8/23/00; amd 2010-330 §1 eff 10/13/10]

560.640 Potentially dangerous dogs

(A) *Acts against a person, pet or domestic animal with no injury.*

(1) A dog may be classified as a potentially dangerous dog if the Director finds that the dog has not injured nor wounded, but has

menaced, chased, displayed threatening or aggressive behavior, or otherwise has threatened or endangered the safety of any pet or domestic animal.

(2) A dog shall be classified as a potentially dangerous dog if the Director finds that the dog has not injured nor wounded, but has menaced, chased, displayed threatening or aggressive behavior, or otherwise has threatened or endangered the safety of any person.

(3) In making the determination in subsection (A)(1) of this section, the Director may consider the criteria in subsection (C) of this section.

(B) *Acts against a pet or domestic animal resulting in injury while not running at large.* Except as otherwise provided in LCC 560.650, a dog shall be classified as a potentially dangerous dog upon a finding by the Director that the dog has bitten, injured, wounded, or killed any pet or domestic animal.

(C) *Criteria for Subsection (A)(1)*
The Director may consider the following relevant non-exclusive criteria and factors in making the appropriate findings required by paragraph (1) of subsection (A) of this section. The Director shall take into consideration any aggravating evidence from the injured person and any mitigating evidence from the dog owner in applying these criteria and factors.

(1) The dog's age and amenability to training;

(2) whether the dog has a history of chasing, menacing, or displaying threatening or aggressive behavior towards people, pets, or domestic animals;

(3) whether the dog has a history of chasing, biting, wounding, injuring, killing, or threatening livestock;

(4) whether the dog has been determined to have wounded, injured, killed, or chased livestock under this Chapter;

(5) whether the dog has a history of running at large;

(6) whether the dog owner has previously owned dogs that were found to be dangerous or potentially dangerous;

(7) whether the dog owner has previously owned dogs that were found to be running at large;

(8) whether the dog owner has previously owned dogs that were allowed to be a nuisance or a dangerous public nuisance;

(9) what steps the dog owner has taken in the past to fence or restrain the dog to prevent its running at large and the degree of success of those steps;

(10) whether another unit of government has found the dog to be dangerous or potentially dangerous or any similar classification;

(11) whether the dog owner is willing to enter into an agreement, similar to that described in LCC 560.670(E), prepared and negotiated with the Director on behalf of the County;

(12) whether the dog is lawfully licensed and has had a record of being so licensed;

(13) how and under what conditions the dog became loose and was running at large; and

(14) whether any damage to personal or real property has been caused by or is a result of the conduct of the dog.

[Adopted 90-131 §4 eff 4/11/90 (formerly 5.46.110 (A)); amd 98-100 §2 eff 3/31/98; amd 98-356 §1 eff 8/19/98; amd 99-129A §3 eff 6/8/99; amd 2010-330 §1 eff 10/13/10]

560.650 Dangerous dogs

A dog shall be classified as a dangerous dog upon a finding by the Director that the dog:

(A) has bitten, injured, wounded, or killed any person;

(B) is running at large and has bitten, injured, wounded, or killed, any pet or domestic animal; or

(C) has been, and is currently, classified as a potentially dangerous dog and thereafter exhibits the same or similar behavior that led to its classification as a potentially dangerous dog by this or any other jurisdiction.

[Adopted 90-131 §4 eff 4/11/90 (formerly 5.46.110 (B)); amd 98-100 §2 eff 3/31/98; amd 98-356 §1 eff 8/19/98; amd 2010-330 §1 eff 10/13/10]

560.660 Exemptions

(A) No dog shall be found to be a dangerous dog or a potentially dangerous dog under LCC 560.630 if it is a dog trained for law enforcement purposes and is on duty and under the control of a law enforcement officer at the time it exhibits behavior described in LCC 560.640 or 560.650.

(B) No dog shall be found to be a dangerous dog or a potentially dangerous dog under LCC 560.630 if the Director determines that the dog has:

(1) bitten, injured, wounded, chased, menaced, displayed threatening or aggressive behavior, killed, or otherwise threatened or endangered the safety of any person, pet, or domestic animal wrongfully assaulting the dog or the dog’s owner, or

(2) bitten, injured, wounded, chased, menaced, displayed threatening or aggressive behavior, or otherwise threatened or endangered the safety of any person, pet, or domestic animal trespassing upon premises occupied by the dog’s owner.

[Adopted 90-131 §4 eff 4/11/90 (formerly 5.46.110 (C)); amd 98-100 §2 eff 3/31/98; amd 99-129A §3 eff 6/8/99; amd 2010-330 §1 eff 10/13/10]

560.665 Disposition of dangerous dogs

(A) A dog that is found, pursuant to LCC 560.600 to 560.699, to be a dangerous dog shall be disposed of pursuant to this section.

(B) If a dog has been found, pursuant to LCC 560.600 to 560.699, to be a dangerous dog for behavior described in LCC 560.650, the dog may not be redeemed nor released. The dog shall be euthanized in a humane manner.

[Adopted 2010-330 §1 eff 10/13/10]

560.667 Disposition of potentially dangerous dogs

(A) A dog that is found, pursuant to LCC 560.600 to 560.699, to be a potentially dangerous dog shall be disposed of pursuant to this section.

(B) If a dog has been determined, pursuant to LCC 560.600 to 560.699, to be a potentially dangerous dog for behavior described in LCC 560.640, it shall be redeemed or released subject to LCC 560.670.

560.670 Regulation of potentially dangerous dogs

(A) *Owners whose dogs are covered by regulations.*

(1) Upon receipt of a notice of classification as a potentially dangerous dog under LCC 560.630, the owner shall comply with the regulations imposed by this section.

(2) Upon residing within Linn County for more than 30 cumulative days, the owner of any dog that has been classified as a potentially dangerous dog, a dangerous dog, or any similar classification, by another unit of local government in Oregon, including but not limited to any county or municipality, shall comply with the regulations imposed upon the owner and dog by the other unit of local government, to the extent that such regulations are consistent with the types of regulations contained in subsections (D) and (E) of this section. Notwithstanding whether or not the other unit of local government has imposed a similar regulation, the owner shall comply with the posting requirements of subsection (D)(8) of this section.

(B) In addition to complying with all other requirements of this Chapter, the owner of a potentially dangerous dog and any person to whom ownership of a potentially dangerous dog is transferred shall comply with subsections (D) and (E) of this section.

(C) The Director shall have authority to impound the dog pending completion of all appeals if the Director has reasonable grounds to believe that the owner of the dog will fail to comply with any of the restrictions specified in the notice of classification during the period of appeal.

(D) *Regulations.*

(1) The person shall physically restrain the dog to prevent it at all times from:

- (a) interfering with the public’s legal access to the property where the dog is kept;
- (b) interfering with the public’s use of any public sidewalk, roadway, or property

adjoining the property where the dog is kept, or where the dog is allowed to be; and

(c) having access to any public sidewalk, roadway or property adjoining the property where the dog is kept or any other portion of the property from which the public is not excluded.

(2) The person shall not allow the dog to be off the owner's premises when not restrained by a physical control device.

(3) The person shall fasten to a collar and keep on the dog at all times such tag as may be issued by Linn County, identifying the dog as a potentially dangerous dog.

(4) The person shall present the dog for photographing by the Director, if the dog has not been photographed while impounded, and the Director shall retain such photograph as long as the dog remains classified as a potentially dangerous dog.

(5) If expressly required by the Director, the person shall submit the dog to be tattooed or to have a microchip affixed to or implanted in the dog, identifying the dog as a potentially dangerous dog. The owner shall not remove from the dog at any time such tattoo or microchip.

(6) The person shall pay an annual fee, established by the County Fee Schedule, at the time the tag described in paragraph (3) of this subsection is issued and a like fee each year thereafter on or before the dog license renewal date, so long as the dog remains within Linn County and remains classified as a potentially dangerous dog. This fee shall be in addition to any other license fee.

(7) The person shall notify the Director by certified mail where the dog is kept within ten (10) days of any change.

(8) The person shall post warning signs, supplied by the Director, at the location where the dog is kept. The signs shall be posted in conspicuous places visible from each public sidewalk or road that adjoins the property or, if no such public sidewalk or road adjoins the property, then at each boundary line of the property where

access is provided to the property. The owner of the dog shall post a sign deposit in an amount set by the annual fee schedule for the warning sign. The sign deposit shall be returned subject to all the following conditions being satisfied:

(a) the owner makes a written request for return of the sign deposit; and

(b) the dog has been declassified by the Director; and

(c) the owner returns the warning sign in as good a condition as it was in when obtained by the owner

(9) The person shall comply with any other restrictions or regulations imposed by the Director which in the Director's judgment are reasonably necessary to protect the health, welfare, or safety of any person or property.

(10) The person shall not allow the dog to engage in behavior described in LCC 560.650 (C).

(E) *Redemption, release, transfer.* A potentially dangerous dog may be redeemed by the dog's owner or released, transferred, sold, or given to another person by the owner only in compliance with this subsection.

(1) A potentially dangerous dog may be redeemed by the dog's owner or released, transferred, sold, or given to another person by the owner only if the County, owner, and receiver of the dog, if any, first execute a written agreement as described in this subsection. The owner and receiver of the dog, if any, shall:

(a) stipulate to conditions, restrictions, requirements, and regulations for continued maintenance of the dog which are for the purpose of protecting the health, safety, and welfare of the people and property of Linn County and of the person to whom transferred or where relocated; and

(b) agree to defend, indemnify, and hold harmless the County against any claim or award for damage caused by the dog subsequent to signing the agreement; and

(c) agree not to transfer, sell, or give the dog to any other person, unless:

(i) the owner or receiver of the dog can first demonstrate to the satisfaction of the Director that such transfer, sale, or gift would render the dog unable to thereafter behave in such manner that this Chapter regulates, requires, or prohibits and this satisfaction is put in writing signed by the owner and the County; and

(ii) the person to whom the dog is transferred, sold, or given first signs an agreement described in this subsection.

(2) After the agreement is executed by the County and transferor and transferee of a potentially dangerous dog, the dog may be transferred, sold, or given to another person. The transferring owner shall:

(a) provide a copy of any notices, requirements and regulations imposed on the owner and the owner's dog to the person to whom the dog is transferred, sold, or given; and

(b) provide written proof to the County that such notice has been given; and

(c) provide written proof to the County of the new address of the dog.

(3) A person to whom a dog is transferred, sold, or given shall keep the County informed of the location of the dog and comply with this Chapter and any agreement executed thereunder.

(F) No owner of a potentially dangerous dog or any person to whom a potentially dangerous dog is transferred, sold, or given pursuant to this section shall fail to comply with any provision or term in this section. Any such failure is a violation of this Chapter.[Adopted 90-131 §4 eff 4/11/90 (formerly 5.46.140; amd 98-100 §2 eff 3/31/98; amd 98-356 §1 eff 8/19/98; amd 99-129A §3 eff 6/8/99; amd 09-222 §1 eff 6/2/09; amd 2010-330 §1 eff 10/13/10]

560.680 Appeal of Director's determination

(A) *Written Application.* The owner may appeal the Director's determination to the Board by complying with this section.

(B) A notice of intent to appeal must be in writing, and must specify whether or not the dog owner will be represented by counsel.

(C) The notice of intent to appeal must be filed with the Director.

(1) The notice of intent to appeal filed by a dog owner must be received, by the Director, within ten (10) calendar days of the following, whichever occurs first:

(a) The date notice required by LCC 560.630(D) was mailed by certified mail to the owner;

(b) The date notice required by LCC 560.630(D) was personally served, if so served, upon the owner; or

(c) The date when the owner acquired actual knowledge of the information required to be contained in the notice required by LCC 560.630(D).

(D) *Hearing on appeal by the Board.* The Board shall conduct a hearing pursuant to LCC 560.180 on an appeal from the Director's determination to classify a dog as a dangerous dog or potentially dangerous dog.

(1) The Board shall determine whether to affirm, modify, or deny the Director's determination.

(2) The owner and any other person having relevant evidence concerning the dog's behavior shall be allowed to present testimony, without consideration as to whether or not such person submitted an affidavit to the Director.

[Adopted 90-131 §4 eff 4/11/90 (formerly 5.46.130 (E)); amd 98-100 §2 eff 3/31/98; amd 98-356 §1 eff 8/19/98; amd 99-129A §3 eff 6/8/99; 00-482 §1 eff 8/23/00; amd 2010-330 §1 eff 10/13/10]

560.685 Complaint of injury by injured person

(A) An injured person may file a complaint described in subsection (B) of this section not later than 30 calendar days after the alleged incident, alleging that a dog has engaged in behavior that could lead to a classification as a dangerous dog or a potentially dangerous dog.

(B) The injured person must set forth in the complaint of injury the grounds and all supporting evidence for such complaint and an identification of the dog sufficient to proceed against a specific dog. The Director may require the injured person to provide such information on forms approved and provided by the Director. The Director, upon a finding that the complaint is supported by the

evidence provided, may undertake an investigation and make a determination whether the dog is a dangerous dog or a potentially dangerous dog in accordance with LCC 560.630.

(C) The Director shall not consider any complaint filed pursuant to this section not timely filed under subsection (A) of this section.

[Adopted 98-356 §1 eff 8/19/98; amd 99-129A §3 eff 6/8/99; amd 2010-330 §1 eff 10/13/10]

560.690 Rescission of classification as potentially dangerous; petition

(A) No sooner than one year after a dog has been classified as potentially dangerous, the dog owner may petition the Director to rescind the classification of the dog as potentially dangerous. The petition shall be accompanied by a petition filing fee established by the County Fee Schedule and shall contain the information upon which the dog owner relies to support rescission.

(B) The Director shall consider the petition, conduct such further investigation deemed necessary by the Director, and may deny the petition, grant the petition, or defer decision on the petition for not more than six months.

(C) If the petition is denied, the dog owner may not petition for rescission until at least one year has passed from the date of denial.

(D) In making a decision on a petition for rescission, the Director shall consider all relevant factors mentioned in the petition or revealed by such further investigation that may have been conducted that shows that the dog continues or does not continue to be a potentially dangerous dog, and that shows whether rescission of the classification of the dog as potentially dangerous would be in the best interests of the health, safety, and welfare of the residents of Linn County.

(E) Nothing in this section shall be construed to confer a right to have a classification of a dog as a potentially dangerous dog rescinded.

[Adopted 90-131 §4 eff 4/11/90 (formerly 5.46.190); amd 98-100 §2 eff 3/31/98; amd 2010-330 §1 eff 10/13/10]

[LCC 560.691 to 560.899 are reserved for future use]

VIII. PENALTIES

560.900 Penalties

(A) Citations issued under this Chapter are subject to LCC Chapter 240 (Enforcement Code).

(B) A violation by any dog owner or keeper of LCC 560.160(B), 560.170(A), 560.210(I), 560.230(B), 560.240(B), 560.320(A), 560.330(C), 560.350(D), 560.360(B), 560.415(B), 560.480, 560.490(C), 560.522(D), 560.530(A), 560.580(C), 560.670(F), or the failure to pay any costs imposed under this Chapter, shall be a “Class A” violation.

(C) A violation by any dog owner, keeper, or person of LCC 560.220(D), 560.410(B), or 560.490(D) shall be a “Class B” violation.

(D) A citation for violation of LCC 560.410(B) shall give the person cited the option of forfeiture of bail in lieu of appearance in court. A citation for violation of LCC 560.415(B) shall not give the person cited the option of forfeiture of bail in lieu of appearance in court, but the person must appear and enter a plea.

(E) In addition to any fine or sentence imposed on the keeper under this section, the court may order that a dog be killed in a humane manner if the dog has bitten, wounded, or killed a person. In determining whether a dog is to be killed, the court must give consideration to the factors described in LCC 560.905 and issue written findings on those factors. If the dog is not ordered killed pursuant to this section, the court shall order that the dog undergo sterilization, if the dog is not already sterilized. The sterilization procedure shall be at the expense of the keeper of the dog.

(F) Subject to periodic advance payment of the cost of keeping the dog in impoundment, the killing of a dog pursuant to a court order under this section may not be carried out during the period that the order is subject to the appeal process. Unless otherwise specifically ordered by the appellate court, the dog may be killed during the appeal period if the keeper fails to maintain

advance payment of the cost of keeping the dog impounded.

(G) If a court orders a dog killed and the keeper does not make the dog available for that purpose, the court may issue a search warrant for a property upon probable cause to believe that the dog is located at that property.

[Adopted 88-536 §3 eff 10/12/88 (formerly 5.40.600 and 5.45.100 (C)); amd 98-100 §2 eff 3/31/98 adopting ORS 609.092; amd 98-356 §1 eff 8/19/98; amd 99-058 §4 3/3/99; amd 99-129A §3 eff 6/8/99; amd 2010-330 §1 eff 10/13/10]

560.905 Consideration of factors prior to ordering a dog killed

(A) In determining whether a dog should be killed as provided under LCC 560.900(E), a court shall consider the following factors:

(1) The circumstances of the bite or wound, including whether the dog was provoked by the person bitten;

(2) Whether the keeper has a history of maintaining dogs that are a public nuisance, dangerous public nuisance, potentially dangerous, or dangerous;

(3) The impact of keeper actions on the behavior of the dog;

(4) The severity of the bite or wound;

(5) Whether the person was killed;

(6) The ability and inclination of the keeper to prevent the dog from biting, wounding, or killing another person;

(7) Whether the dog can be relocated to a secure facility which would prevent the dog from biting, wounding, or killing another person;

(8) The effect that a transfer of ownership would have on ensuring the health and safety of the public;

(9) Whether the dog has unjustifiably bitten, wounded, or killed a person on a prior or subsequent occasion; and

(10) Any other factors the court may deem relevant.

(B) The court is not required to treat any one of the factors in subsection (A) of this section as controlling, but may do so.

[Adopted 2010-330 §1 eff 10/13/10]

Statutory References and Other Authorities:
ORS Chapters 34, 40, 203, 307, 346, 433, 609;
Animal Welfare Act of 1970 (7 U.S.C. 2133)

Legislative History of Chapter 560:

Passed: Pursuant to ORS 609.040, the electors of Linn County, at a general election conducted on November 7, 1972, passed a measure prohibiting Dogs Running At Large; eff 2/3/73.

I. General Provisions: LCC 560.005 to 560.099:

Amendments:

#1 2010-330 §1 eff 10/13/10

II. Dog Control Administration Code: LCC 560.100 to 560.199 (formerly codified at Chapters 5.45 and 560):

Adopted 86-120 §1 eff 4/30/86

Amendments to 86-120 and LCC 5.45:

#1 88-536 §4 eff 10/12/88

#2 89-495 eff 9/27/89

#3 91-431 eff 7/1/91

#4 95-177 eff 5/10/95 (renumbering)

#5 98-100 eff 4/1/98

#6 98-356 eff 8/19/98

#7 99-058 eff 3/3/99

#8 99-129A §3 eff 6/8/99

#9 2010-330 §1 eff 10/13/10

III. Dog Licensing Code: LCC 560.200 to 560.299:

Amendments:

#1 2010-330 §1 eff 10/13/10

IV. Dog Kennel Code: LCC 560.300 to 560.399 (formerly codified at Chapters 5.46 and 562):

Adopted 85-001 eff 2/6/85

Amendments to 85-001:

#1 88-536 §3 eff 10/12/88

#2 91-431 §§ 1 and 2 eff 7/1/91

#3 95-177 eff 5/10/95 (renumbering)

#4 98-100 eff 4/1/98

#5 98-356 eff 8/19/98

#6 99-058 §4 eff 3/3/99

#8 99-129A §3 eff 6/8/99

- #9 2000-482 §1 eff 8/23/00
- #10 2010-330 §1 eff 10/13/10

V. Dog Nuisance Code: LCC 560.400 to 560.499:

Amendments:

- #1 2010-330 §1 eff 10/13/10

VI. Livestock Injury Code: LCC 560.500 to 560.599:

Amendments:

- #1 2010-330 §1 eff 10/13/10

VII. Dangerous Dog Code: LCC 560.600 to 560.699 (formerly codified at Chapters 5.40 and 564):

Adopted 90-031 eff 4/11/90

Amendments to 90-031

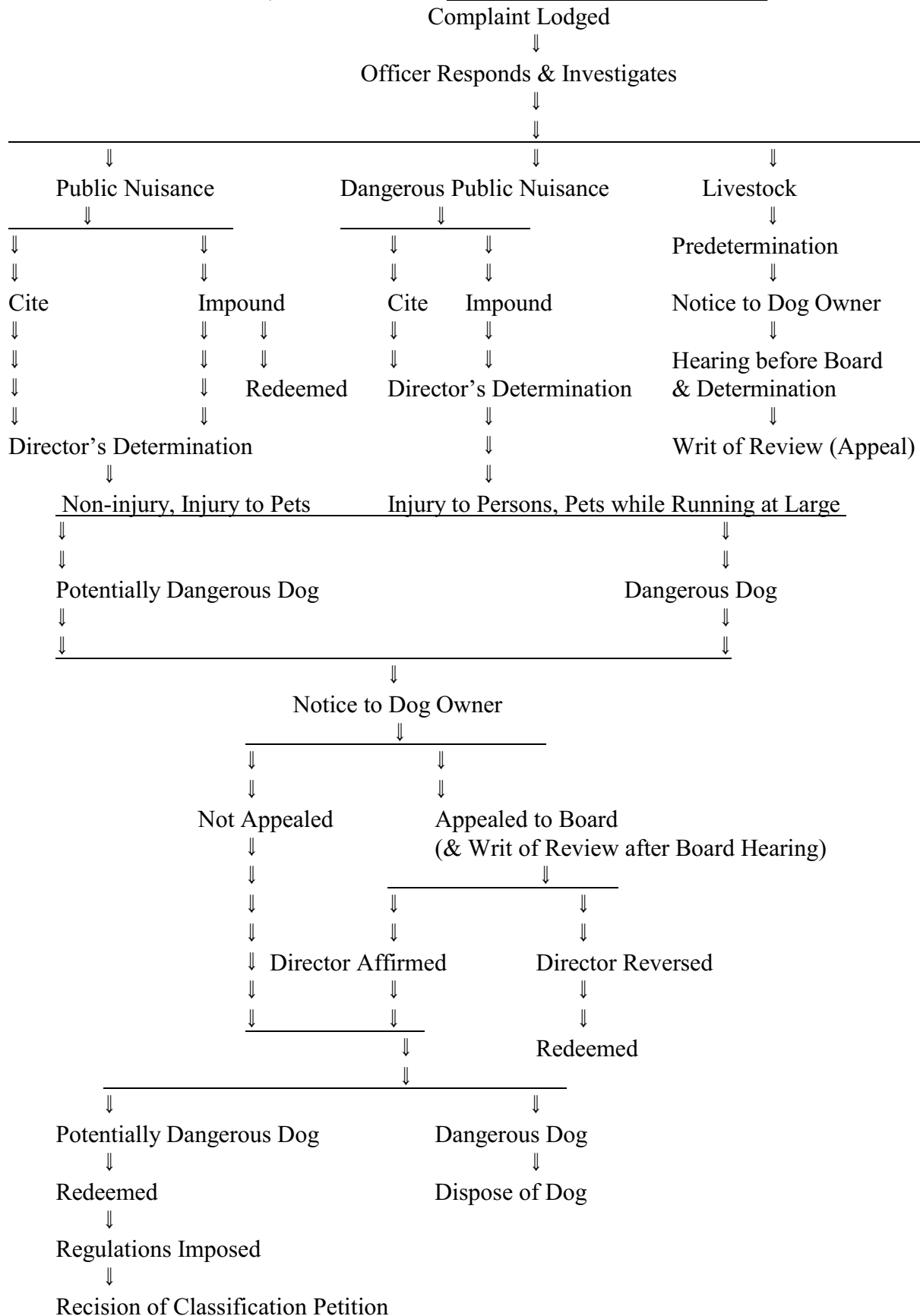
- #1 91-431 §6 eff 6/26/91
- #2 95-177 eff 5/10/95 (renumbering)
- #3 98-100 eff 4/1/98
- #4 98-356 eff 8/19/98
- #5 99-058 §4 eff 3/3/99
- #8 99-129A §3 eff 6/8/99
- #9 2009-222 §1 eff 6/3/09
- #10 2010-330 §1 eff 10/13/10

VIII. Penalties: LCC 560.900 to 560.999:

Amendments:

- #1 2010-330 §1 eff 10/13/10

APPENDIX 1 — CHART ILLUSTRATING GENERAL OUTLINE OF DOG CONTROL ENFORCEMENT
 (Non-Substantive, For Purposes of Illustration Only)



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