

**Councilmembers**

Position No.

1. Tod Gunther
2. Barbara Ford, Deputy Mayor
3. Brandon Hoyt
4. Dave Harman
5. Nicola McDonald
6. Josh Penner
7. Scott Drennen



**Orting City Council**

**Special Meeting Agenda**

Orting Public Safety Building  
401 Washington Ave. SE, Orting, WA

August 17, 2016  
6 p.m.

*Audience members are welcome to speak on any topic on the agenda after Councilmembers have finished their discussion.*

Mayor Joachim Pestinger, Presiding

**A. CALL MEETING TO ORDER, PLEDGE OF ALLEGIANCE AND ROLL CALL.**

**B. AB16-77 –Animal Control Services/Pierce County**

- **Mark Bethune/Charlotte Archer**

1. **Motion:** *to approve second reading and adoption of Ordinance No. 2016-986, amending Title 6 Chapter 3 Animal Control.*
2. **Motion:** *to approve second reading and adoption of Ordinance No. 2016-987, amending Title 4, Business Licensing.*
3. **Motion:** *to approve second reading and adoption of Ordinance No. 2016-988, amending OMC 1- 4-1, Civil Infractions.*
4. **Motion:** *to approve second reading and adoption of Ordinance No.2016-989, amending OMC Title 6, Chapter 3b-Livestock.*
5. **Motion:** *to approve second reading and adoption of Ordinance No.2016-990, Chapter 5-8- Public Nuisances and Disturbance Noises.*

**C. COUNCIL GOALS**

**D. ADJOURN**

**Motion:** *Move to Adjourn.*

***Upcoming Meetings:***

**Next Regular Meeting: August 31, 2016 (PSB)**



**City Of Orting  
Council Agenda Summary Sheet**

<b>AB16-77</b> <b>SUBJECT: Adoption of Animal Control Ordinances</b>	<b>Agenda Item #:</b>	<b>AB16-77</b>
	<b>For Agenda of:</b>	<b>08/17/16</b>
	<b>Department:</b>	<b>Administration</b>
	<b>Date Submitted:</b>	<b>08/11/16</b>

<b>Orting Staff &amp; Professional Representatives</b>			
Mayor, Joachim Pestinger	X	<b>Cost of Item:</b>	<u>\$8,000</u>
City Administrator, Mark Bethune	X	<b>Amount Budgeted:</b>	<u>\$12,400</u>
City Attorney, Charlotte Archer	X	<b>Unexpended Balance:</b>	<u>\$4,400</u>
City Clerk, Jane Montgomery		<b>Timeline:</b> <i>enter a timeline if applicable</i>	
City Treasurer, Scott Larson			
Police Chief, Bill Drake		<b>BARS:</b>	
Public Works, Dean Kaelin		<b>Fiscal Note:</b> To date the City has expensed \$3,000 for animal control. Ostensibly the approx. \$8000 to Pierce County Animal Control could stay within the city's budget without extra spending in 2016.	
Recreation and Parks, Beckie Meek			
Municipal Court, Kaaren Woods			
Parametrix, JC Hungerford			
BHC Consultants, Roger Wagoner			
<b>Agenda Placement:</b> <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Councilmember <input type="checkbox"/> Committee Chair <input checked="" type="checkbox"/> City Administrator			

<b>Attachments: Ordinances 16-986, 16-987, 16-988, 16-989, 16-990, Executive Summary</b>
<b>SUMMARY STATEMENT:</b> The City of Orting is in need of animal control services. Pierce County Animal Control, comprised of a joint effort by the Pierce County Auditor's Office and Pierce County Sherriff's Office, are in the business of providing services related to the care and control of animals (code enforcement, pet licensing, shelter). The City desires to contract with Pierce County for said services. In order to effectuate the contract, Pierce County requires the City adopt current Pierce County Code Chapter 6 relating to animal enforcement and Pierce County Code (PCC) Chapters 5.02, 5.04, and 5.24 prior to the effective date of the Agreement.
<b>COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:</b>
<b>RECOMMENDED ACTION:</b>
<ol style="list-style-type: none"> <li><b>Motion:</b> to approve second reading and adoption of Ordinance No. 2016-986, amending Title 6 Chapter 3 Animal Control.</li> <li><b>Motion:</b> to approve second reading and adoption of Ordinance No. 2016-987, amending Title 4, Business Licensing.</li> <li><b>Motion:</b> to approve second reading and adoption of Ordinance No. 2016-988, amending OMC 1-4-1, Civil Infractions.</li> <li><b>Motion:</b> to approve second reading and adoption of Ordinance No.2016-989, amending OMC Title 6, Chapter 3b-Livestock.</li> <li><b>Motion:</b> to approve second reading and adoption of Ordinance No.2016-990, Chapter 5-8- Public Nuisances and Disturbance Noises.</li> </ol>

## Executive Summary

The City of Orting is in need of animal control services. Pierce County Animal Control, comprised of a joint effort by the Pierce County Auditor's Office and Pierce County Sheriff's Office, are in the business of providing services related to the care and control of animals (code enforcement, pet licensing, shelter). The City desires to contract with Pierce County for said services. In order to effectuate the contract, Pierce County requires the City adopt current Pierce County Code Chapter 6 relating to animal enforcement and Pierce County Code (PCC) Chapters 5.02, 5.04, and 5.24 prior to the effective date of the Agreement.

The following Ordinances meet this requirement, in the following ways:

1. **Ordinance XXX, Amending Title 6, Chapter 3 – Animal Control**: By this Ordinance, the City adopts all of PCC Chapter 6, relating to animal enforcement, including but not limited to general provisions for licensing and impounding animals; mandatory spay/neuter for impounded dogs; and redemption of dogs, livestock and other animals. If adopted, this Ordinance gives Pierce County and its agents authorization to license animals within the City, to pursue and impound stray animals, and to declare particular animals “dangerous” or “potentially dangerous,” and impound same.

While Pierce County will enforce these regulations once adopted, the City will be required to: (1) provide a Hearing Examiner for any and all appeals arising from the enforcement of these provisions; (2) provide Code Enforcement staff to enforce any regulations regarding the number of animals permitted on each parcel within the City; and (3) provide Police assistance for any dangerous animal call that occurs after-hours.

2. **Ordinance XXX, Amending Title 4 – Business Licensing**: By this Ordinance, the City adopts Pierce County's regulations for the licensing of “animal” businesses (PCC 5.02, 5.04, and 5.24), including commercial kennels, grooming parlors, and pet shops. Once adopted, Pierce County will issue business licenses for these businesses, but will expect City Code Enforcement to work with the Auditor to ensure compliance with these regulations.
3. **Ordinance XXX, Amending OMC 1-4-1 – Civil Infractions**: As part of the Agreement, the City must adopt Pierce County's regulations regarding the civil penalties applicable to the aforementioned regulations (Animal Control and Business Licensing). While the OMC contains provisions identical to the PCC for the applicable criminal penalties, the OMC must be amended to meet the PCC regulations pertaining to Civil Infractions, found at Chapter 1.16 PCC. This Ordinance amends OMC 1-4-1 by incorporating all of PCC 1.16. In particular, the maximum penalties for civil infractions will increase as follows: (1) Class 1 Civil Infraction, increase from \$250 to \$600; (2) Class 2 Civil Infraction, increase from \$150 to \$300; (3) Class 3 Civil Infraction, increase from \$50 to \$120; and (4) Class 4 Civil Infraction, increase from \$20 to \$60.
4. **Ordinance XXX, Amending OMC Chapter 5-8 – Public Nuisances and Disturbance Noises**: As part of the Agreement, the City must adopt some of Pierce County's regulations regarding actionable animal noises. In particular, the maximum penalties for noise violations will increase and a third violation will no longer constitute a misdemeanor.
5. **Ordinance XXX, Amending Title 6, Chapter 3B – Livestock**: Independent of the Agreement with Pierce County, the City is in the process of revising and updating its Livestock regulations (codified at OMC 6-3B-1, et seq.). Pierce County has asked to review the proposed regulations, so as to ensure that they are compatible with all PCC regulations that the City is required to adopt. These proposed regulations have already passed through the Planning Commission.

**CITY OF ORTING**  
**WASHINGTON**  
**ORDINANCE NO. 2016-986**

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**AN ORDINANCE OF THE CITY OF ORTING, WASHINGTON, REPEALING AND REENACTING ORTING MUNICIPAL CODE TITLE 6 (POLICE REGULATIONS), CHAPTER 3 (ANIMAL CONTROL), ARTICLE A (GENERAL PROVISIONS); ADOPTING OMC TITLE 6, CHAPTER 3, ARTICLE C (PENALTIES AND ENFORCEMENT); ADOPTING OMC TITLE 6, CHAPTER 3, ARTICLE D (LICENSING OF DOGS AND CATS); OMC TITLE 6, CHAPTER 3, ARTICLE E (DANGEROUS AND POTENTIALLY DANGEROUS ANIMALS); ADOPTING OMC TITLE 6, CHAPTER 3, ARTICLE F (RABIES CONTROL); OMC TITLE 6, CHAPTER 3, ARTICLE G (DOG CONTROL ZONES); ADOPTING OMC TITLE 6, CHAPTER 3, ARTICLE H (POTENTIALLY DANGEROUS WILD ANIMALS); ADOPTING OMC TITLE 6, CHAPTER 3, ARTICLE I (BABY CHICKS, RABBITS AND DUCKLINGS); ADOPTING TITLE 6, CHAPTER 3, ARTICLE J (LIVESTOCK DISTRICTS); PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE**

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**WHEREAS**, the City of Orting is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington; and

**WHEREAS**, Orting Municipal Code (OMC) Title 6, Chapter 3, Article A contains the City's regulations for cats, dogs and domestic animals; and

**WHEREAS**, the Pierce County Auditor's Office and Pierce County Sheriff's Office together, hereinafter referred to as the County, is in the business of providing services related to the care and control of animals for Pierce County residents; and

**WHEREAS**, the City of Orting is in need of animal control and pet licensing services and desires to contract with Pierce County for its animal control and licensing services for dogs, cats and domestic animals; and

**WHEREAS**, on July 7, 2016, the City Council authorized the Mayor and City Manager to execute an interlocal agreement with the County to provide animal control and pet licensing services to the City; and

**WHEREAS**, as a condition of providing animal control and pet licensing services to the City, the interlocal agreement requires the City to adopt the same animal control and pet licensing regulations as adopted by the County;

**WHEREAS**, the City Council has determined that the proposed regulations are in accord with the Comprehensive Plan, will not adversely affect the public health, safety, or general welfare, and are in the best interest of the citizens of the City; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORTING, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1. OMC Title 6, Chapter 3, Article A; Repealed and Reenacted.**

Orting Municipal Code Title 6, Police Regulations, Chapter 3, Animal Control, Article A, “Dogs, Cats, Domestic Animals,” is hereby repealed in its entirety, and a new Title 6, Chapter 3, Article A, “General Provisions” is established, to read as follows:

**TITLE 6. POLICE REGULATIONS  
CHAPTER 3. ANIMAL CONTROL  
ARTICLE A. GENERAL PROVISIONS**

Sections:

6-3A-1	Definitions.
6-3A-2	Authorized Agents May Perform Duties.
6-3A-3	Licenses Required.
6-3A-4	Authority to Pursue.
6-3A-5	Notice of Impounding Animal.
6-3A-6	Hindering an Officer.
6-3A-7	Interference With Impounding.
6-3A-8	Redemption of Dogs.
6-3A-9	Redemption of Livestock.
6-3A-10	Redemption of Animals Other Than Dogs and Livestock.
6-3A-11	Adoption Fees.
6-3A-12	Mandatory Spay/Neuter for Impounded Dogs and Cats – Deposit – Refund – Exceptions.
6-3A-13	Conditions of Release.
6-3A-14	Injured or Diseased Animals.
6-3A-15	Duties Upon Injury or Death to an Animal.
6-3A-16	Improper Handling/Storage of Poisonous Substances.

**6-3A-1. DEFINITIONS.**

As used in this Chapter (except Article B hereto), the following terms shall have the following meanings:

"Adult" means any animal seven months of age or over.

"Adequate care" means providing the following to animals:

1. Food or feed appropriate to the species for which it is intended. Both food and water must be in sufficient quantity, quality, and form appropriate to sustain the animals and should be in containers designed and situated to allow the animal easy access; and

2. A shelter that keeps the animals in a healthful, sanitary, warm, dry, and safe condition, and allows the animal to turn around freely, sit, stand, and lie without restriction, and by application does not cause injury, disfigurement, or physical impairment to the animal.

3. Adequate veterinary medical care.

"Altered" shall mean to permanently render incapable of reproduction (i.e., spayed or neutered).

"Animal" means any nonhuman mammal, bird, reptile or amphibian including livestock and poultry as defined herein.

"Animal Control Authority" or "Animal Control Agency" means Pierce County Animal Control.

"Animal Shelter" means that animal control facility authorized by Pierce County and the City of Orting.

"At large" means off the premises of the owner or keeper of the animal, and not under restraint by leash or chain or not otherwise controlled by a competent person.

"Auditor" means Pierce County Auditor.

"Cat" means and includes female, spayed female, male and neutered male cats.

"Competent adult" means a person 18 years of age or older who is able to sufficiently care for, control, and restrain his/her animal, and who has the capacity to exercise sound judgement regarding the rights and safety of others.

"City" means the City of Orting.

"County" means Pierce County.

"Court" means Orting Municipal Court, Pierce County District Court or the Pierce County Superior Court, which courts shall have concurrent jurisdiction hereunder.

"Dangerous Animal" means any animal that:

- A. inflicts severe injury on or kills a human being without provocation; or
- B. inflicts severe injury on or kills an animal without provocation; or
- C. has been previously found to be potentially dangerous, the owner having received notice of such and the animal again bites, attacks, or endangers the safety of humans or other animals.

Provocation exception: an animal is a dangerous animal when it enters onto private property without the consent of the owner or occupant and inflicts a severe injury on or kills a human or animal regardless of provocation.

If two or more animals participate in an attack that results in a severe injury or death to a human being or animal, then all such animals may be deemed to be a dangerous animal.

"Dog" means and includes female, spayed female, male and neutered male dogs.

"Gross Misdemeanor" means a type of crime classification that, while not a felony, is ranked as a serious misdemeanor. The maximum penalty for a gross misdemeanor is 364 days in jail and/or a \$5,000.00 fine, pursuant to OMC 1-4-1(B).

"Hearing Examiner" or "Examiner" means the City of Orting Hearing Examiner.

"Humane trap" means a live animal box enclosure trap designed to capture and hold an animal without injury.

"Impound" means to receive into the custody of the Animal Control Authority, or into the custody of the Auditor or designee.

"Juvenile" means any animal from weaning to seven months of age.

"Licensing Officer" means:

1. The Pierce County Auditor, or
2. Any officer, agency or organization appointed or empowered by the city to register and license dogs and/or cats.

"Livestock" means all cattle, sheep, goats, or animals of the bovidae family; all horses, mules, other hoof animals, or animals of the equidae family; all pigs, swine, or animals of the suidae family; llamas; and ostriches, rhea, and emu.

"Misdemeanor" means a crime classification with a maximum penalty of 90 days in jail and/or a \$1,000.00 fine, pursuant to OMC 1-4-1(A).

"Muzzle" means a muzzle made in a manner that will not cause injury to the animal or interfere with its vision or respiration but shall prevent it from biting any person or animal.

"Owner" means any person, firm, or corporation owning, having an interest in, or having control or custody or possession of any animal.

"Potentially Dangerous Animal" means any animal that, without provocation:

- A. bites a human or animal; or
- B. chases or approaches a person in a menacing fashion or apparent attitude of attack;  
or
- C. any animal with a known propensity, tendency, or disposition to attack unprovoked, to cause injury or otherwise to threaten the safety of humans or domestic animals.

Provocation exception: an animal is a potentially dangerous animal when it enters onto private property without the consent of the owner or occupant and bites a human or animal or chases or approaches a person in a menacing fashion or apparent attitude of attack regardless of provocation.

If two or more animals participate in an attack that results in a bite being inflicted upon a human or animal, then all such animals may be deemed to be a potentially dangerous animal.

"Poultry" means domestic fowl normally raised for eggs or meat, and includes chickens, turkeys, ducks and geese.

"Proper Enclosure" means, while on the owner's property, the animal shall be confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have a locking door with a padlock, secure sides, a concrete floor, and a secure top attached to the sides, and shall also provide protection from the elements for the animal. The structure must comply with all applicable provisions of local Building and Zoning Codes.

"Provoke" or "Provocation" means to intentionally torment, agitate, or harass an animal prior to the attack, chase, or menacing behavior. "Provoke" or "Provocation" does not include actions taken to defend oneself, other humans, animals, or property.

"Severe injury" means any physical injury which results in broken bones or disfiguring lacerations.

"Unconfined" means not securely confined indoors or in a securely enclosed and locked pen or structure upon the premises of the person owning, harboring or having the care of the animal.

"Vicious" means chasing or approaching a person or animal in a menacing or apparent attitude of attack or the known propensity to do any act which might endanger the safety of any person, animal, or property of another.

"Warning Sign" means a clearly visible and conspicuously displayed sign containing words and a symbol (to inform children or others incapable of reading) warning that there is a dangerous animal on the property.

### **6-3A-2 AUTHORIZED AGENTS MAY PERFORM DUTIES.**

Wherever a power is granted to or a duty imposed upon the Pierce County Sheriff or City of Orting Police Chief, the power may be exercised or the duty may be performed by a Deputy of the Sheriff or Police Chief, or by an authorized agent of Pierce County or the City of Orting, deputized by the Sheriff or the Police Chief.

A. The animal control authority shall be a division of the Pierce County Auditor. The duly elected auditor of Pierce County shall be the director of the animal control authority.

B. The animal control authority is authorized to enforce the provisions of the Pierce County Code and the laws of the State of Washington as they pertain to animals.

C. All animal control officers must be special deputies commissioned by the Pierce County Sheriff.

**6-3A-3 LICENSES REQUIRED.**

Licenses required are for regulation and control. This entire Article shall be deemed an exercise of the power of the State of Washington, the County of Pierce and the City of Orting, to license for regulation and/or control and all its provisions shall be liberally construed for the accomplishment of either or both such purposes.

**6-3A-4 AUTHORITY TO PURSUE.**

Those employees or agents of the County and City charged with the duty of seizing animals running at large may pursue such animals onto County-owned property, City-owned property, vacant property, and unenclosed private property, and seize, remove, and impound the same.

**6-3A-5 NOTICE OF IMPOUNDING ANIMAL.**

Upon the impoundment of any animal under the provisions of this Article, the animal control agency shall immediately notify the owner, if the owner is known, of the impounding of such animal, and of the terms upon which said animal can be redeemed. The impounding authority shall retain said animal for 48 hours following actual notice to the owner. The notifying of any person over the age of 18 who resides at the owner's domicile shall constitute actual notice to the owner. If the owner of said animal so impounded is unknown, then said animal control agency shall make a reasonable effort to locate and notify the owner of said animal.

**6-3A-6 HINDERING AN OFFICER.**

It is unlawful for any person to interfere with, hinder, delay, or impede any officer who is enforcing the provisions of this Article as herein provided. A violation of this Section is a misdemeanor.

**6-3A-7 INTERFERENCE WITH IMPOUNDING.**

It is unlawful for any person to willfully prevent or hinder the impounding of any animal, or to by force or otherwise remove any animal from the animal shelter without authority of the person in charge of the animal shelter, or without payment of all lawful charges against such animal, or to willfully resist or obstruct any officer in the performance of any official duty. A violation of this Section is a misdemeanor.

**6-3A-8 REDEMPTION OF DOGS.**

The owner of any dog impounded under this Chapter may redeem said dog within 48 hours from time of impounding by paying to the animal control agency the appropriate redemption fee and providing proof of such animal's current pet license at the time of redemption. The first time a dog is impounded within a one year period, the redemption fee is \$25.00; for the second impound within a one year period the redemption fee is \$50.00; for the third and subsequent impounds within a one year period the redemption fee is \$75.00. If a dog is wearing a current pet license at the time of the

first impound, no redemption fee will be collected. In addition to the redemption fee, the redeemer shall pay all charges associated with the care and keeping of such dog, including the first and last days the dog is retained by the impounding authority. This boarding charge will be collected for the first time impound whether the animal is wearing a pet license or not. If an impounded dog is not redeemed by the owner within 48 hours, then any person may redeem it within the next 48 hours by complying with the above provision. In case such dog is not redeemed within 96 hours, it may be humanely destroyed or otherwise disposed of within the discretion of the animal control agency.

**6-3A-9 REDEMPTION OF LIVESTOCK.**

The owner of livestock impounded under this Chapter may redeem said livestock within 48 hours from time of impounding by paying to the impounding authority a redemption fee of \$35.00 per animal for small livestock (i.e., goats, sheep, swine, ostriches, rhea, emu, etc.) and a redemption fee of \$75.00 per animal for larger livestock (i.e., cattle, horses, mules, llamas, etc.). In addition, the cost of a private livestock hauler, if one is used, is to be paid at the time of redemption. In addition to the redemption fee, the redeemer shall pay all charges associated with the caring and keeping of such animal, including the first and last days that the animal is cared for by the impounding authority. The livestock may be cared for by a private boarding facility, in which case that facility's boarding fees and all associated costs shall be paid at the time of redemption.

**6-3A-10 REDEMPTION OF ANIMALS OTHER THAN DOGS AND LIVESTOCK.**

The owner of any animal other than a dog or livestock impounded under the provisions of this Chapter may redeem it within 48 hours from the time of impounding by paying to the animal control agency the appropriate redemption fee and providing proof of such animal's current pet license (if applicable) at the time of redemption. In addition to the redemption fee, the redeemer shall pay all charges for the care and keeping of such animal, equal to the current total daily rate, including the first and last days, that the animal is retained by the impounding authority. If such animal is not redeemed by the owner within 48 hours, it may be humanely destroyed or otherwise disposed of at the discretion of the animal control agency; provided, however, that any animal so impounded less than two months of age, at the discretion of the animal control agency, may be humanely destroyed or otherwise disposed of at any time after impounding.

**6-3A-11 ADOPTION FEES.**

Pierce County Animal Control is authorized to set and facilitate the collection of adoption fees as necessary for animals in the possession of animal control. Fees shall pay for the adoption process including assessment site visits, veterinary services, farrier services, other necessary services, and processing costs as appropriate. Fees may be collected directly by the County or by a contract vendor.

**6-3A-12 MANDATORY SPAY/NEUTER FOR IMPOUNDED DOGS AND CATS – DEPOSIT – REFUND – EXCEPTIONS.**

A. Mandatory Spay/Neuter. Any unaltered dog or cat that is impounded more than once in any 12-month period may not be redeemed by any person until the animal is spayed or neutered. The alteration shall be accomplished by the shelter or by transport of the animal by animal control

personnel to any duly licensed veterinarian in Pierce County. In all cases, the veterinarian fees shall be paid at the time of redemption by the animal's owner.

B. Exceptions. The alteration shall not be required upon a showing of proof of alteration from a licensed veterinarian. The alteration shall not be required if the owner or other person redeeming the animal provides a written statement from a licensed veterinarian stating that the spay or neuter procedure would be harmful to the animal.

#### **6-3A-13            CONDITIONS OF RELEASE.**

The animal control agency is authorized to refuse to release to its owner any animal which has been impounded more than once in a 12-month period unless satisfied that the owner has taken steps that the violation will not occur again. The agency may impose reasonable conditions which must be satisfied by the owner before release of the animal, including conditions assuring that the animal will be confined. Any violation of the conditions of release is unlawful and shall constitute a Civil Violation pursuant to OMC 1-13-6.

#### **6-3A-14            INJURED OR DISEASED ANIMALS.**

Any animal suffering from serious injury or disease may be humanely destroyed by the animal control agency; provided, that the animal control agency shall immediately notify the owner, if the owner is known, and if the owner is unknown, make a reasonable effort to locate and notify the owner.

#### **6-3A-15            UPON INJURY OR DEATH TO AN ANIMAL.**

The operator of a vehicle involved in an accident resulting in injury or death to a domestic animal or livestock, shall immediately stop the vehicle at or as near to the scene of the accident as possible, and return thereto, and shall give to the owner or other competent person having custody of the animal, the name and address of the operator of the vehicle and the registration number of the vehicle involved in the accident. If the owner or other competent person is not the person at the scene of the accident, the operator shall take reasonable steps to locate the owner or custodian of said animal and shall supply the information herein above required. If the animal is injured to the extent that it requires immediate medical attention and there is no owner or custodian present to look after it, the operator of said vehicle shall immediately report the situation to the appropriate law enforcement agency. A violation of this Section is a misdemeanor.

#### **6-3A-16            IMPROPER HANDLING/STORAGE OF POISONOUS SUBSTANCES.**

No person shall place or expose or cause to be placed or exposed in any yard or lot of vacant or enclosed land, or on any exposed place or public place, or on any street, alley, or highway, or other place where the same may be taken internally by a child, person, or by any animal, any poisonous substance which, if taken internally may cause death or serious sickness. The provisions of this Section shall not apply to the killing by poison of any animal in a lawful and humane manner by its owner or by a duly authorized agent of such owner or by a person acting pursuant to instructions from a duly constituted public authority. A violation of this Section is a misdemeanor.

**Section 2. OMC Title 6, Chapter 3, Article C, Penalties and Enforcement, Enacted.**

OMC Title 6, Police Regulations, Chapter 3, Animal Control, is hereby amended by the adoption of a new Article C, "Penalties and Enforcement," as follows:

**TITLE 6. POLICE REGULATIONS  
CHAPTER 3. ANIMAL CONTROL  
ARTICLE C. PENALTIES, ENFORCEMENT**

Sections:

6-3C-1	Exclusions.
6-3C-2	Infractions.
6-3C-3	Misdemeanors.
6-3C-4	Gross Misdemeanors.
6-3C-5	Penalties.

**6-3C-1 EXCLUSIONS.**

Nothing in this Chapter applies to accepted husbandry practices used in the commercial raising or slaughtering of livestock or poultry, or products thereof, or to the use of animals in the normal and usual course of rodeo events.

**6-3C-2 INFRACTIONS.**

The following are declared to be Class 3 Civil Infractions:

A. **Animals at Large.** It is unlawful for the owner or person having control or custody of any animal to cause or permit such animal to leave the premises where the owner resides, unless the animal is under physical restraint adequate to the size and nature of the animal. Exceptions to this restriction are pets engaged in formal training, hunt or competition, or animals lawfully within a designated off-leash park, or service dogs engaged in activity for which they are trained or in service. Any such animal may be seized and impounded. A violation of this subsection is a Class 3 Civil Infraction.

B. **Agitating an Animal.** It is unlawful to intentionally agitate, harass, or provoke an animal. A violation of this subsection is a Class 3 Civil Infraction.

C. **Animal Bites.** It is unlawful to own an animal that bites a person while such person is on public property or lawfully on private property. A violation of this subsection is a Class 3 Civil Infraction.

D. **Animals Chasing Livestock.** It is unlawful for the owner or person having control or custody of any animal to cause or permit such animal to chase another owner's livestock when not engaged in the specific work of herding said livestock as approved and permitted by the owner of the livestock. A violation of this subsection is a Class 3 Civil Infraction.

E. **Animals Chasing Vehicles on Public Roads.** It is unlawful for the owner or person having control or custody of any animal to cause or permit such animal to chase, run after, or jump at

vehicles lawfully using the public road, street, avenues, alleys, and ways. Any such animal may be seized and impounded. A violation of this subsection is a Class 3 Civil Infraction.

**F. Animals Jumping and/or Threatening Pedestrians.** It is unlawful for the owner or person having control or custody of any animal to cause or permit such animal to frequently or habitually snarl at, growl at, jump upon, or threaten persons upon the public sidewalks, roads, streets, alleys, or public places. Any such animal may be seized and impounded. A violation of this subsection is a Class 3 Civil Infraction.

**G. Confinement of Female Dogs and Cats in Heat.** Every female dog and cat in heat shall be confined in a building or secure enclosure in such a manner that such female dog or cat cannot come into contact with a male of the species, except for planned breeding. It is unlawful for any person having control or custody of a dog or cat in heat to cause or permit such animal to be unconfined. Any dog or cat not so confined when in heat, whether or not such dog or cat is licensed, may be seized and impounded, and will be subject to mandatory spaying in accordance with the process in OMC 6-3A-12. A violation of this subsection is a Class 3 Civil Infraction.

**H. Failure to License.** A violation of OMC Chapter 6-3D is a Class 3 Civil Infraction.

**I. Damaging Property.** It is unlawful for the owner or person having control of any animal to cause or permit their animal to leave the premises of the owner and thereafter cause damage to anything of value which does not exceed \$250.00, including another pet or livestock. A violation of this subsection is a Class 3 Civil Infraction.

**J. Failure to Provide Adequate Care.** It is unlawful for any owner or person having control or custody of any animal to fail to provide adequate care as defined in OMC 6-3A-1 and \_\_\_\_\_ [Livestock Code] under circumstances not amounting to animal cruelty as defined in RCW 16.52.205 or 16.52.207. A violation of this subsection is a Class 3 Civil Infraction. (Circumstances that amount to animal cruelty as defined in RCW 16.52.205 and 16.52.207 are addressed pursuant to those provisions.)

**K. Confinement of an Animal in a Motor Vehicle.** It is unlawful for an owner or person to confine any animal in a motor vehicle in such a manner that places it in a life- or health-threatening situation by exposure to a prolonged period of extreme heat or cold, without proper ventilation or other protection from such heat or cold. In order to protect the health and safety of such animal, an animal control officer or law enforcement officer who has probable cause to believe that this Section is being violated shall have the authority to enter such motor vehicle by any reasonable means under the circumstances, after making a reasonable effort to locate the owner. A violation of this subsection is a Class 3 Civil Infraction.

**L. Public Disturbance Noise and Public Nuisance Noise Made by an Animal.** Any Public Disturbance Noise made by an animal and Public Nuisance Noise made by an animal is unlawful and shall be enforced under the provisions of OMC 5-8-1, *et seq.* Violations and penalties are defined in OMC 5-8-10.

**M. Sale or Transfer of Animals in Public Places Prohibited.** It is unlawful to sell, barter or otherwise transfer for the purpose of changing ownership any animal in an area open to the public

unless such activity is licensed pursuant to OMC Chapter 4-6C. A violation of this subsection is a Class 3 Civil Infraction.

**N. Failure to Provide Humane Restraint.** Any animal, excluding livestock and poultry, that is restrained by a tether must be restrained in compliance with this Section. All tethers must meet the following requirements:

1. Chains must be adequate to restrain the animal, but appropriate size and weight for the animal.
2. The use of chains, pinch/prong collars, or choke chains as collars is prohibited. This subsection does not apply to pinch/prong collars or choke chains used for training purposes when a person is present at all times and is actively engaged in training the animal.
3. A tether must be connected to a collar or harness on a swivel or in a manner that prevents entanglement.
4. The tether must not cause injury, disfigurement or physical impairment to the animal.
5. A tether must allow access to food, water and shelter while restrained.
6. A tether must not allow the animal to leave the owner's property.
7. If there are multiple animals, each animal must be restrained with a separate tether in a manner that prevents entanglement.

A violation of this subsection is a Class 3 Civil Infraction.

**O. Operating a Facility without a License (First Offense).** It is unlawful for any person to own, maintain, or have six or more dogs and/or cats, or operate a commercial kennel or cattery, boarding kennel/cattery, short-term boarding facility, or pet shop, within the unincorporated areas of Pierce County without an applicable license as provided for and defined by OMC Chapter 4-6C. The first violation of this subsection is a Class 3 Civil Infraction.

### **6-3C-3 Misdemeanors.**

The following are declared to be misdemeanors:

**A. Abandonment of Animal.** It is unlawful for the owner or person having control or custody of any animal to place such animal under circumstances which manifest or constitute a willful intent to abandon it, or to abandon an animal by leaving it on the street, road, or highway, or in any public place or on private property without the property owner's permission. A violation of this subsection is a misdemeanor.

**B. Animals Injuring Private and Public Property.** It is unlawful for the owner or person having control of any animal to cause or permit their animal to leave the premises of the owner and thereafter cause damage to anything of value which exceeds \$250.00, including another pet or

livestock. Any such animal may be seized and impounded. A violation of this subsection is a misdemeanor.

C. **Duties Upon Injury or Death to an Animal.** A violation of OMC 6-3A-15 is a misdemeanor.

D. **Hindering an Officer.** A violation of OMC 6-3A-6 is a misdemeanor.

E. **Interference with Impounding.** A violation of OMC 6-3A-7 is a misdemeanor.

F. **Improper Handling/Storage of Poisonous Substances.** A violation of OMC 6-3A-16 is a misdemeanor.

G. **Selling Ill or Injured Animals.** It is unlawful for any person to sell an animal knowing it to be ill or injured. A violation of this subsection is a misdemeanor.

H. **Refusal to Quarantine.** It is unlawful for any person to refuse to quarantine or permit the quarantine of an animal when and as required by OMC 6-3F-4. A violation of this Section is a misdemeanor.

I. **Operating a Facility without a License (Second or Subsequent Offense).** It is unlawful for any person to own, maintain, or have six or more dogs and/or cats, or operate a commercial kennel or cattery, boarding kennel/cattery, short-term boarding facility, or pet shop, within the City without an applicable license as provided for and defined by OMC Chapter 4-6C. The first violation of this subsection is a Class 3 Civil Infraction. A second or subsequent violation of this subsection is a misdemeanor.

J. **Potentially Dangerous Wild Animals.** A violation of OMC Chapter 6-3I is a misdemeanor.

#### **6-3C-4 Gross Misdemeanors.**

The following are declared to be gross misdemeanors:

A. **Animals Injuring Humans or Animals.** It is unlawful for the owner or person having control or custody of any animal to cause or permit such animal to cause injury to a human or animal which is acting in a lawful manner. Any such animal may be seized and impounded. A violation of this subsection is a gross misdemeanor.

B. **Habitual Violator.** Any owner receiving two or more convictions, singularly or in combination, of crimes relating to animals within a ten-year period, or any combination of two findings of potentially dangerous and/or dangerous animals within ten years, or any four infractions, singularly or in combination, pursuant to OMC Chapter 6-3C found to be committed by the district court within a 5-year period may be designated as a "habitual violator" by the animal control authority and shall be prohibited from owning animals for a period of not less than ten years. A violation of this prohibition is a gross misdemeanor.

C. **Penalty for Failure to Control or Comply with Restrictions.** A violation of any of the provisions of OMC Chapter 6-3E is a gross misdemeanor.

D. **Use of an Animal in Illegal Activity.** No person shall keep, maintain, control, or retain custody of any animal in conjunction with or for the purpose, whether in whole or in part, of aiding, abetting, or conducting any illegal activity or committing any crime within the City. Any such animal may be seized and impounded. A violation of this subsection is a gross misdemeanor.

E. **Possession of a Dangerous or Potentially Dangerous Animal where Prohibited.** It is unlawful to bring an animal into the City that has been declared to be dangerous or vicious by any other agency, animal control authority, Hearing Examiner, municipality or court. The owner of such animal shall be guilty of a gross misdemeanor under circumstances evidencing that the animal was intentionally brought into the City by the owner or at the request or acquiescence of the owner.

F. **Relocation of Dangerous or Potentially Dangerous Animal without Proper Notice.** When an animal has been declared dangerous or potentially dangerous by an animal control authority, the owner of the animal shall be guilty of a gross misdemeanor if such animal is thereafter found to have been moved to a location other than as registered with the animal control authority without notice as indicated in OMC 6-3E-5.

G. **Animals Declared Potentially Dangerous in Other Jurisdictions.** When an animal has been declared potentially dangerous by any other agency, animal control authority, Hearing Examiner, municipality or court, the owner of such animal shall obtain a permit in accordance with OMC 6-3E-4 within 30 days of the declaration or, if an appeal has been filed, a final decision in the other jurisdiction. During the entire appeal process, the owner shall not allow or permit the animal to go beyond the premises of the owner unless such animal is securely leashed and under the control of a competent adult and humanely muzzled or otherwise securely restrained. Failure to comply with this subsection shall be a gross misdemeanor.

#### **6-3C-5 Penalties.**

Unless specifically designated in this Chapter as a misdemeanor or gross misdemeanor, any violation of this Chapter is unlawful and shall constitute a Class 3 Civil Infraction pursuant to OMC Chapter 1-13. Such penalty is in addition to any other remedies or penalties specifically provided in this Title. For each act herein prohibited of a continuing nature, each day shall be considered a separate offense.

#### **Section 3. OMC Title 6, Chapter 3, Article D, Licensing of Dogs and Cats, Enacted.**

OMC Title 6, Police Regulations, Chapter 3, Animal Control, is hereby amended by the adoption of a new Article D, "Licensing of Dogs and Cats," as follows:

### **TITLE 6. POLICE REGULATIONS CHAPTER 3. ANIMAL CONTROL ARTICLE D. LICENSING OF DOGS AND CATS**

Sections:

- 6-3D-1 License Required.
- 6-3D-2 Purchase of License.
- 6-3D-3 Fees.
- 6-3D-4 Late Payment Penalty.
- 6-3D-5 License Not Transferable.
- 6-3D-6 License Violation – Civil Infraction.

**6-3D-1 License Required.**

A. Any adult dog or cat which is off the premises of its owner must be licensed and have a current license tag attached to the collar or harness which is worn by the dog or cat. If any dog and/or cat which is required to be licensed is found without a current license tag, it may be seized and impounded by the animal control agency, Pierce County Sheriff or City of Orting Police Chief, provided, such seizure and impoundment will not preclude the issuance of a civil infraction. Hunting dogs, during a controlled hunt, need not wear a license tag.

B. No more than five dogs and/or cats may be individually licensed at a residence in the City. Dogs and cats are exempt from the above licensing provisions when they are in the custody of a recognized animal rescue group. In order to qualify as a recognized rescue group, proof of registration with the Internal Revenue Service pursuant to IRC 501(c)(3) must be submitted to the Pierce County licensing authority by the group.

**6-3D-2 Purchase of License.**

All dog or cat licenses shall be obtained by paying the required license fee in the amounts and within the time limits as provided in this Chapter to the Licensing Officer, or to the Licensing Officer's designated licensing agent. The license shall remain in force for a period of 12 months from the date of issuance. There is no prorating of any license fee. The applicant shall be furnished with such license and a metal tag with the words "City of Orting". The tag shall be attached to a collar or harness which will be worn by the dog or cat at all times.

**6-3D-3 Fees.**

The license fees for the ownership, keeping, or having control of dogs and/or cats in the City shall be as follows:

A. Adult Dogs:

altered	\$ 20.00
unaltered	\$ 55.00

B. Adult Cats:

altered	\$ 12.00
unaltered	\$ 55.00

C. "Temporary Tag" dogs/cats (30 days) \$ 0.00

D. Duplicate License Tag for a dog or cat \$ 5.00

E. Reduced rates for senior citizens, 62 years of age or older, and individuals with a permanent disability:

- 1. Dogs:
  - altered \$ 10.00
  - unaltered \$ 30.00
- 2. Cats:
  - altered \$ 5.00
  - unaltered \$ 30.00

In order to receive the fee advantage for altered dogs and cats, an individual must provide either proof of alteration from a licensed veterinarian or a written statement from a licensed veterinarian that the spay/neuter procedure would be harmful to the animal.

Individuals with a permanent disability, residing in the City, qualify for the reduced fee specified in (E) above, provided that the dogs and cats are not used for a commercial purpose. To qualify for this reduced fee, individuals with a permanent disability must provide proof of permanent disability to the Licensing Officer, or the Licensing Officer's designated licensing agent, in the form of a U.S. Department of Veterans Affairs Identification Card or documentation showing at least 30 percent permanent disability, a Washington Department of Licensing parking placard issued for permanent disability under RCW 46.16.381, or any other means that the licensing agency, Licensing Officer, or the Licensing Officer's designated licensing agent deems an appropriate proof of permanent disability.

The Licensing Officer is authorized to establish agents for the purpose of selling pet licenses on its behalf. The agents shall be allowed to collect a service charge of \$4.00 for each new pet license or renewal transaction. This service fee may be negotiated at a different rate if included in a contract for shelter and adoption services.

**6-3D-4 Late Payment Penalty.**

A. Any person who fails to obtain a license within 30 days after the license expiration date but before 60 days of the expiration date shall pay a penalty of \$10.00 per license. Any person who fails to obtain a license within 60 days of the license expiration date shall pay a penalty of \$20.00 per license.

B. No late payment penalty shall be charged on new license applications if:

- 1. The owner submits proof of purchase or acquisition of the animal within the preceding 30 days; or
- 2. The owner has moved into the City within the preceding 30 days; or
- 3. The animal is currently or has been within the preceding 30 days, under the age which requires a license; or

4. The owner purchases the license(s) voluntarily, prior to in-person or field contact by animal control personnel; or

5. The owner submits other proof deemed acceptable in the animal control authority's administrative policy.

**6-3D-5 License Not Transferable.**

Dog or cat licenses as provided for in this Chapter shall be nontransferable. A person may not use a license for another dog or cat that he/she owns, if the dog or cat for which it was issued is no longer owned by such person. It is unlawful for any person to give, sell, exchange, or otherwise transfer a dog or cat license to another person, even if it is to be used for the same dog or cat for which it was originally issued.

Dog or cat license fees are nonrefundable.

**6-3D-6 License Violation – Civil Infraction.**

Any violation of OMC 6-3D-1, 6-3D-2, or 6-3D-5 is unlawful and shall constitute a Class 3 civil infraction pursuant to OMC 1-4-1. Provided, that if the person presents evidence of a valid license to the City of Orting Municipal Court, the citation shall be dismissed without cost, except that the court may assess court administration costs of \$25.00 at the time of dismissal.

**Section 4. OMC Title 6, Chapter 3, Article E, Dangerous and Potentially Dangerous Animals, Enacted.**

OMC Title 6, Police Regulations, Chapter 3, Animal Control, is hereby amended by the adoption of a new Article E, “Potentially Dangerous Animals,” as follows:

**TITLE 6. POLICE REGULATIONS  
CHAPTER 3. ANIMAL CONTROL  
ARTICLE E. DANGEROUS AND POTENTIALLY DANGEROUS ANIMALS**

Sections:

- 6-3E-1 Declaration of Animals as Potentially Dangerous or Potentially Dangerous – Procedure.
- 6-3E-2 Appeal of Declaration.
- 6-3E-3 Permits, Fees, and Conditions for Dangerous Animals.
- 6-3E-4 Permits, Fees, and Conditions for Potentially Dangerous Animals.
- 6-3E-5 Notification of Status of a Dangerous or Potentially Dangerous Animal.
- 6-3E-6 Impoundment of Dangerous or Potentially Dangerous Animals.
- 6-3E-7 Criminal Penalty for Failure to Control or Comply with Restrictions
- 6-3E-8 Duty to Comply.

**6-3E-1 Declaration of Animals as Dangerous or Potentially Dangerous – Procedure.**

A. The animal control authority may declare an animal as dangerous or potentially dangerous if the animal control officer has a reasonable belief that the animal’s conduct falls within

the definition of a dangerous animal or potentially dangerous animal as set forth in OMC 6-3A-1 and the exclusions contained in this Article do not apply. The finding must be based upon:

1. The written or verbal complaint of a citizen who is willing to testify that the animal has acted in a manner which causes it to fall within the definitions of a dangerous or potentially dangerous animal; or
2. Animal bite reports filed with the animal control authority; or
3. Actions of the animal witnessed by any animal control officer or law enforcement officer; or
4. Other substantial evidence.

**B. Exclusions.** An animal shall not be declared dangerous or potentially dangerous if the threat, injury, or bite alleged to have been committed by the animal was sustained by a person who was at the time committing a willful trespass upon the premises occupied by the owner of the animal, or who was abusing or assaulting the animal, or who was committing or attempting to commit a crime. This exclusion does not apply to actions taken in defense of oneself, other humans, animals, or property.

**C.** The declaration of a dangerous or potentially dangerous animal shall be in writing and shall be served on the owner by one of the following methods:

1. Regular and certified mail to the owner's last known address. Service shall be deemed complete upon the third day following the day upon which the notice was placed in the mail. If the third day falls upon a Saturday, Sunday, or legal holiday, then service shall be deemed complete on the next business day; or
2. Personally; or
3. By posting the declaration in a conspicuous location at the owner's residence.

**D.** The declaration shall state at least:

1. The description of the animal.
2. The name and address of the owner of the animal, if known.
3. A brief statement of facts upon which the declaration is based.
4. A reference to the Code Section that contains a definition of a dangerous or potentially dangerous animal and to this Chapter.
5. The availability of an appeal in case the person objects to the declaration, if a request is made within ten calendar days.

## **6-3E-2 Appeal of Declaration.**

A. The owner of the animal may contest a declaration of dangerous or potentially dangerous animal by submitting a written appeal.

1. The owner must submit the written appeal at the Pierce County Auditor's office within ten calendar days of service of the declaration.

2. Except as provided by this Chapter, the appeal shall proceed in accordance with the procedures set forth in OMC 1-12-3.

3. Notice of the public hearing shall be mailed to the owner's address as listed on the written appeal.

4. At the public hearing, the scope of evidence and the scope of review shall be de novo.

5. The burden shall be on the animal control authority to prove, by a preponderance of evidence, that the animal is a dangerous animal or potentially dangerous animal as defined in OMC 6-3A-1 and that the exclusions contained in OMC 6-3E-1 do not apply.

6. The Examiner shall render a decision on the appeal within 30 calendar days following the conclusion of all testimony and hearings and closing of the record unless a longer period of time is agreed to by the parties.

B. The decision of the Examiner shall be considered final and conclusive unless a writ of review is filed in Superior Court within 20 calendar days of the decision.

1. If a writ is issued, the petitioner shall be responsible for paying the cost of preparing the administrative record and the transcript of proceedings and shall serve copies of both upon the Prosecuting Attorney's office. The prevailing party shall be entitled to recovery of these costs.

C. During the entire appeal process, the owner shall keep the animal indoors or securely confined on the property where the owner resides. Secure confinement may be accomplished by erecting an escape proof fence, keeping the animal in a proper enclosure as described in OMC 6-3A-1, humanely tethering the animal as described in OMC 6-3C-2, or by other means approved by the animal control authority. It is unlawful for the owner appealing a declaration to allow or permit the animal to go beyond the premises of the owner unless such animal is securely leashed, under the control of a competent adult, and humanely muzzled or otherwise securely restrained. Upon noncompliance with this subsection, the animal control authority is authorized to impound the animal subject to the procedures set forth in OMC 6-3E-6.

### **6-3E-3 Permits, Fees, and Conditions for Dangerous Animals.**

A. Following the declaration of a dangerous animal and the exhaustion of the appeal therefrom, the owner of a dangerous animal shall obtain a permit for such animal from the animal control authority and shall be required to pay the fee for such permit in the amount of \$500.00 to the Pierce County Auditor or the Auditor's designee. In addition, the owner of a dangerous animal

shall pay an annual renewal fee for such permit in the amount of \$500.00 to the Pierce County Auditor or the Auditor's designee. A permit will be issued to the owner of a dangerous animal upon payment of the permit fees if the owner is able to pass an inspection within the prescribed timeframe by meeting the following inspection criteria:

1. A proper enclosure of the animal with a posted warning sign as defined in OMC 6-3A-1;
2. Proof that the animal has been microchipped and microchip number is provided;
3. Two current, color, digital photographs in electronic format of the animal (minimum 3" x 5" in size), for identification purposes;
4. Proof of current rabies vaccination;
5. Proof the animal has been spayed or neutered;
6. Proof of a policy of liability insurance (such as homeowner's insurance) issued by an insurer qualified under Title 48 RCW in the amount of at least \$500,000.00, insuring the owner for any personal injuries inflicted by the dangerous animal, or proof of a surety bond issued by a surety insurer qualified under chapter 48.28 RCW in a form acceptable to the animal control authority in the sum of at least \$500,000.00 and payable to any person injured by the dangerous animals;
7. Proof that the owner has obtained a muzzle as defined in OMC 6-3A-1. The muzzle must be available at time of inspection; and
8. Proof that the owner has obtained a brightly colored collar with current license tag. The collar must be made available at the time of inspection.

B. Following a declaration of dangerous animal and the exhaustion of any appeals therefrom, it shall be unlawful for the person owning or harboring or having care of a dangerous animal to allow and/or permit such animal to:

1. Remain outside of a proper enclosure while on the premises of such person; or
2. Go beyond the premises of such person unless such animal is securely leashed and humanely muzzled or otherwise securely restrained.

The animal must wear a brightly colored collar with current license tag at all times.

C. Where an animal is found to be a dangerous because the animal killed a human being, after the exhaustion of appeal therefrom, the dangerous animal shall be surrendered to the animal control authority and be humanely euthanized.

#### **6-3E-4 Permits, Fees, and Conditions for Potentially Dangerous Animals.**

A. Following the declaration of a potentially dangerous animal and the exhaustion of the appeal therefrom, the owner of a potentially dangerous animal shall obtain a permit for such animal from the animal control authority and shall be required to pay the fee for such permit in the amount of \$250.00 to the Pierce County Auditor or the Auditor's designee. In addition, the owner of a potentially dangerous animal shall pay an annual renewal fee for such permit in the amount of \$250.00 to the Pierce County Auditor or the Auditor's designee. A permit will be issued to the owner of a potentially dangerous animal upon payment of the permit fees if the owner provides the following:

1. Proof that the animal has been microchipped and microchip number is provided.
2. Two current, color, digital photographs in electronic format of the animal (minimum 3" x 5" in size), for identification purposes;
3. Proof of current rabies vaccination;
4. Proof the animal has been spayed or neutered; and
5. Proof that the owner has obtained a brightly colored collar with current license tag.

The animal must wear the collar with current license tag at all times.

B. The animal control authority may impose any or all of the following restrictions upon the owner of a potentially dangerous animal:

1. **Training.** The animal control authority may require the owner of a potentially dangerous animal and the animal to attend, complete, and pay all costs associated with an obedience training class. The animal control authority shall pre-approve any choice of class by the owner of the animal, and proof of satisfactory completion of such training shall be provided to the animal control authority, even if similar training has been completed by the animal in the past.

2. **Restraint.** The animal control authority may require the owner of the potentially dangerous animal to muzzle the animal whenever the animal goes beyond the owner's property.

3. **Confinement.** The animal control authority may require that the owner of a potentially dangerous animal keep the animal within a proper enclosure as defined in OMC 6-3A-1 while on the owner's property.

4. **Warning.** The animal control authority may require that the owner of a potentially dangerous animal post a warning sign as described in OMC 6-3A-1.

5. **Liability Insurance.** The animal control authority may require that the owner of a potentially dangerous animal purchase a policy of liability insurance (such as homeowner's insurance) issued by an insurer qualified under Title 48 RCW in an amount

of up to \$250,000.00, insuring the owner for any personal injuries inflicted by the potentially dangerous animal.

C. The animal control authority may inspect the owner's premises to verify compliance with this Section.

D. **Petition to Vacate the Declaration.** Where an owner has obtained a potentially dangerous animal permit and has been in compliance with the requirements of this Section for three consecutive years, the owner may submit a written petition to vacate the potentially dangerous animal declaration and to lift the associated ownership requirements.

1. The petition shall be submitted to the animal control authority.

2. The animal control authority will forward the petition, along with any comments, objections, and recommendations, to the Examiner.

3. The animal control authority may request that a public hearing be scheduled to hear the petition.

4. The Examiner may, in his discretion, grant the petition where the petitioner demonstrates, by a preponderance of evidence, that the animal no longer poses a substantial danger. Among the factors that the Examiner may consider is the age of the animal, the animal and owner's successful completion of an obedience training class, evidence of aggressive behavior or lack thereof, and any other relevant evidence.

5. The Examiner shall issue a decision granting or denying the petition.

**6-3E-5 Notification of Status of a Dangerous or Potentially Dangerous Animal.**

A. The owner of an animal that has been classified as a dangerous or potentially dangerous animal shall immediately notify the animal control authority when such animal:

1. is loose or unconfined; or

2. has bitten or otherwise injured a human being or attacked another animal.

B. At least 48 hours prior to a dangerous or potentially dangerous animal being sold, given away, or moved to another location, the owner shall provide the name, address, and telephone number of the new owner to the animal control authority. The owner shall provide a copy of the declaration the new owner.

C. When an animal classified as dangerous or potentially dangerous dies, the owner of said animal shall submit proof (vet records, etc.) to the Pierce County Auditor or the Auditor's designee within ten calendar days.

**6-3E-6 Impoundment of Dangerous or Potentially Dangerous Animals.**

Should the owner of a dangerous or potentially dangerous animal violate the conditions or restrictions of owning or possessing a dangerous or potentially dangerous animal such animal may be seized and impounded upon issuance of a warrant.

A. The owner may prevent the animal's destruction by, within two business days, submitting a petition for the animal's immediate return.

1. The owner shall submit the written petition to the animal control authority and the petition will be forwarded to the Examiner.

2. Except as provided in this Chapter, the petition shall proceed in accordance with the OMC 1-12-3, as an appeal of an administrative official's decision.

3. Notice of the hearing shall be mailed to the owner at the address listed on the notice of appeal.

4. At the public hearing, the burden shall be on the animal control authority to prove, by a preponderance of evidence that the owner failed to comply with the conditions or restrictions of owning and possessing a dangerous or potentially dangerous animal.

5. The Examiner shall decide if the animal should be returned to the owner, subject to conditions that will bring the owner into compliance with this Chapter, or be humanely euthanized.

6. In cases where a declaration of dangerous or potentially dangerous animal has been issued, but an appeal of the declaration is pending, the Examiner shall decide if the animal should be returned to the owner or remain in impound pending a decision on the appeal. If the Examiner decides to release the animal back to the owner, he may impose additional ownership conditions as necessary to protect the public while the appeal is pending.

7. If the Examiner allows the release of the animal, the owner shall pay all redemption, boarding, and veterinary fees and costs prior to release, except in cases where the animal control authority failed to meet its burden of proof.

B. If a decision to euthanize the animal is rendered by the Examiner, the owner may prevent the animal's destruction by, within seven calendar days:

1. Petitioning the District Court for the animal's immediate return, subject to court imposed conditions, and

2. Posting a bond or security in an amount sufficient to provide for the animal's care for a minimum of 30 calendar days from the seizure date.

3. A copy of the petition shall be served upon the animal control authority and the Prosecuting Attorney's Office the same day that the petition is filed in District Court.

4. The burden shall be on the animal owner to prove that the decision of the Examiner was arbitrary and capricious.

5. If the District Court finds that the Examiner's decision was arbitrary and capricious, the bond or security shall be refunded to the poster and the animal shall be released to the owner.

**6-3E-7 Criminal Penalties for Failure to Control or Comply with Restrictions.**

A. Any person who knowingly violates any provision of this Chapter shall be guilty of a gross misdemeanor.

B. Any person found guilty of violating this Chapter shall pay restitution to the animal control authority for all expenses incurred in the enforcement of this Chapter, including boarding/shelter, food, and veterinary expenses.

C. Furthermore, any dangerous or potentially dangerous animal which attacks a human being or animal may be ordered destroyed when, in the court's judgment, such dangerous or potentially dangerous animal represents a continuing threat of serious harm to human beings or animals.

**6-3E-8 Duty to Comply**

It is the duty of every animal owner to keep his or her animals under proper supervision and control at all times. Where an animal is declared dangerous or potentially dangerous, the duty is upon the animal owner to comply with all provisions of this Chapter. When an animal owner breaches these duties, the responsibility for any resulting injury or damage shall be on the animal owner and not the City or Pierce County.

**Section 5. OMC Title 6, Chapter 3, Article F, Rabies Control, Enacted.**

OMC Title 6, Police Regulations, Chapter 3, Animal Control, is hereby amended by the adoption of a new Article F, "Rabies Control," as follows:

**TITLE 6. POLICE REGULATIONS  
CHAPTER 3. ANIMAL CONTROL  
ARTICLE F. RABIES CONTROL**

Sections:

- 6-3F-1 Definitions.
- 6-3F-2 Duty of Owner, Custodian and Health Officer.
- 6-3F-3 Quarantine – Notice to Owner.
- 6-3F-4 Quarantine – Duties of Owner.
- 6-3F-5 Handling of an Animal Bitten by Rabid Animal.
- 6-3F-6 Publication of Notice of Outbreak of Rabies.
- 6-3F-7 Procedures.
- 6-3F-8 Violation – Penalty.
- 6-3F-9 Severability.

### **6-3F-1 Definitions.**

Unless specifically indicated otherwise, the following definitions shall apply throughout this Chapter:

A. "Animal shelter" means the facilities for the temporary containment of animals, operated by the Tacoma-Pierce County Humane Society.

B. "Health Officer" means the Director of the Tacoma-Pierce County Health Department and/or his authorized representatives.

C. "Quarantine" means the detention or isolation of an animal on account of suspected exposure or affliction with rabies.

D. "Unvaccinated animal" means an animal which has either never been vaccinated against rabies or whose vaccination has expired according to the current Compendium of Animal Rabies Vaccines published by the National Association of State Public Health Veterinarians, Inc., and which has been bitten by a known rabid animal.

E. "Vaccinated animal" means an animal which has been vaccinated in accordance with the Compendium of Animal Rabies Vaccines published by the National Association of State Public Health Veterinarians, Inc., and which has been bitten by a known rabid animal.

### **6-3F-2 Duty of Owner, Custodian and Health Officer.**

A. It shall be the duty of the owner and/or custodian of any dog or cat within the County to quarantine any dog or cat within the County which he has grounds to suspect of being infected with the disease of rabies or hydrophobia.

B. If the Health Officer:

1. Has grounds to suspect that any dog or cat running at large in the County is infected with rabies or hydrophobia; and

2. Has notice that said dog or cat's owner or custodian cannot be determined; and

3. Is able to locate and confine said animal; the Health Officer shall quarantine the animal as provided in this Chapter.

C. The biting of a human being by a dog or cat causing penetration of the skin by the animal's teeth is specifically declared a ground for suspecting that such animal is so infected.

### **6-3F-3 Quarantine – Notice to Owner.**

The Health Officer may initiate a quarantine by delivering to the owner or custodian of such suspected animal, by either certified mail or by hand delivering to a responsible person present on the premises, a written notice of such quarantine which shall prescribe the duration of the quarantine period; provided, that the period of the quarantine shall not exceed ten days, unless it

is determined that the animal is infected with rabies. The delivery of the notice of quarantine to a responsible person present upon the premises where such animal is kept shall be considered service of a notice upon the owner or custodian. Any such animals so quarantined shall be impounded in a shelter or a local veterinary clinic's kennel. At the discretion of the Health Officer, the animal may be quarantined upon the premises of the owner or any other person so long as the requirements of the quarantine are strictly fulfilled.

#### **6-3F-4            Quarantine – Duties of Owner.**

A. During the period of any quarantine, the owner or custodian of a quarantined animal shall not allow the animal to come in contact with any other animal or person or permit such animal to run at large outside of the premises where quarantined or upon the premises itself, unless the premises is enclosed by a secure fence from which the animal cannot escape. When the fence encloses the access to the premises, the animal must be restricted to leave free access to those persons lawfully entering the premises.

B. The owner or custodian shall not remove or cause the animal to be removed from the premises without the prior consent of the Health Officer. These restrictions shall continue until the animal is released from quarantine. If any animal is found running at large after the commencement of the quarantine period or is removed from the premises where quarantined, it shall be impounded and unless claimed and redeemed by its owner or custodian within two days after the expiration of the quarantine period, may be destroyed by the proper authorities.

C. Upon redemption of a dog, cat or other animal released from quarantine, the owner or custodian shall pay the same impound fee and board fee for any dog, cat or other animal quarantined, as provided for in 6-3A-8; provided, however, if the animal is surrendered by the owner or custodian, the service fee shall be waived.

#### **6-3F-5            Handling of an Animal Bitten by Rabid Animal.**

When an animal is known to have been bitten by a rabid animal, the following procedures shall be followed:

A. Unvaccinated Animal. An unvaccinated animal shall be immediately destroyed; provided, that upon the election of the owner, the animal may be kept, at its owner's expense, in strict isolation in a kennel under veterinary supervision for a minimum period of six months following the bite.

B. Vaccinated Animal. A vaccinated animal shall be handled as follows:

1. The animal shall be immediately revaccinated with an approved rabies vaccine and confined under the supervision of a veterinarian for a period of thirty days following revaccination; or

2. If the animal is not immediately revaccinated, it shall be confined in strict isolation in a kennel for six months under the supervision of a veterinarian; or

3. The animal shall be destroyed if the owner or custodian does not comply with subsections (1) or (2) above.

**6-3F-6 Publication of Notice of Outbreak of Rabies.**

Upon any outbreak of rabies or when rabies has been diagnosed within the County, and when in the judgment of the Health Officer there is imminent danger of the spread of the disease, the Health Officer shall publish a notice to that effect in the official newspaper of the County for three successive days. For a period of six weeks following the final publication of the notice, the owner or custodian of a dog shall keep the dog securely confined at all times by leash or in a tight enclosure from which the dog cannot escape. During said period any dog found running at large in the City shall be impounded and unless claimed and redeemed by its owner within two days following such impounding, may be destroyed by the proper authorities. Any person charged with the enforcement of this Chapter may destroy any dog found running at large within the City when, after reasonable effort, he is unable to impound the dog or after reasonable investigation, is unable to locate the owner or custodian thereof. The Health Officer shall have authority to extend the six-week time period for additional six-week periods by notice given in the manner provided above until, in his judgment, the imminent danger of the spread of the disease is no longer present.

**6-3F-7 Procedures.**

The Health Officer is authorized and directed to develop a quarantine program for dogs, cats, and other household pets and otherwise to develop procedures for the enforcement of this Chapter.

**6-3F-8 Violation – Penalty.**

Any person, firm or corporation violating any of the provisions of this Chapter shall be guilty of a misdemeanor and shall be penalized by a fine.

**Section 6. OMC Title 6, Chapter 3, Article G, Dog Control Zones, Enacted.**

OMC Title 6, Police Regulations, Chapter 3, Animal Control, is hereby amended by the adoption of a new Article G, “Dog Control Zones,” as follows:

**TITLE 6. POLICE REGULATIONS  
CHAPTER 3. ANIMAL CONTROL  
ARTICLE G. DOG CONTROL ZONES**

Sections:

- 6-3G-1 Dog Control Zone Established.
- 6-3G-2 Dogs Off Premises.
- 6-3G-3 Violation – Civil Infraction.

**6-3G-1 Dog Control Zone Established.**

The City of Orting is hereby established as a Dog Control Zone.

**6-3G-2 Dogs Off Premises.**

Within a Dog Control Zone, any person owning or having charge, care, custody, or control of any dog shall keep such dog exclusively upon his own premises, except that the dog may be off the premises if it is under control of its owner or a competent person by a leash.

**6-3G-3 Violation – Civil Infraction.**

Any violation of this Chapter is unlawful and shall constitute a Class 3 Civil Infraction pursuant to OMC 1-4-1. Such penalty is in addition to any other remedies or penalties specifically provided in this Title.

**Section 7. OMC Title 6, Chapter 3, Article H, Baby Chicks, Rabbits, and Ducklings, Enacted.**

OMC Title 6, Police Regulations, Chapter 3, Animal Control, is hereby amended by the adoption of a new Article H, “Baby Chicks, Rabbits, and Ducklings,” as follows:

**TITLE 6. POLICE REGULATIONS  
CHAPTER 3. ANIMAL CONTROL  
ARTICLE H. BABY CHICKS, RABBITS, AND DUCKLINGS**

Sections:

- 6-3H-1 Artificial Coloring Unlawful.
- 6-3H-2 Commercial Sale Not Affected.
- 6-3H-3 Violation – Civil Infraction.

**6-3H-1 Artificial Coloring Unlawful.**

It shall be unlawful for any person, firm or corporation to sell, offer for sale, barter, give away, or display living baby chicks, rabbits, ducklings or other fowl, which have been dyed, colored or otherwise treated so as to impart to them an artificial color.

**6-3H-2 Commercial Sale Not Affected.**

This Chapter shall not be construed to prohibit the sale or display of natural baby chicks, rabbits, ducklings or other fowl in proper brooder facilities by hatcheries or stores engaged in the business of selling them for commercial purposes.

**6-3H-3 Violation – Civil Infraction.**

Any violation of this Chapter is unlawful and shall constitute a Class 3 Civil Infraction pursuant to OMC 1-4-1. For each act herein prohibited of a continuing nature, each day shall be considered a separate offense.

**Section 8. OMC Title 6, Chapter 3, Article I, Potentially Dangerous Wild Animals, Enacted.**

OMC Title 6, Police Regulations, Chapter 3, Animal Control, is hereby amended by the adoption of a new Article I, "Baby Chicks, Rabbits and Ducklings," as follows:

**TITLE 6. POLICE REGULATIONS**  
**CHAPTER 3. ANIMAL CONTROL**  
**ARTICLE I. POTENTIALLY DANGEROUS WILD ANIMALS**

Sections:

- 6-3I-1 Animal Defined.
- 6-3I-2 Potentially Dangerous Wild Animals.
- 6-3I-3 Duty to Advise Purchaser/Recipient.
- 6-3I-4 Allowing Wild or Vicious Animals to Run at Large Prohibited.
- 6-3I-5 Exceptions for Circuses, Zoos, and Transportation of Wild Animals.
- 6-3I-6 Violations – Penalty – Continuing Offenses.

**6-3I-1 Animal Defined.**

For purposes of this Chapter, "animal" means all reptiles, birds, invertebrates, mammals, amphibians, and fishes.

**6-3I-2 Potentially Dangerous Wild Animals.**

Persons residing in the City of Orting may keep potentially dangerous wild animals other than those defined in and prohibited by RCW 16.30.010 if they obtain a permit as defined in OMC 6-3E-4 from the Licensing Officer or the Licensing Officer's designated agent. Such permits may be granted only upon a showing by the applicant that adequate safeguards have been instituted and will be maintained which effectively control any dangerous or vicious propensities of such animal, and eliminate any danger to individuals and property, and that the keeping and maintaining of such animal will be in the best interests of the animal and will in no way constitute a nuisance to the occupant of any surrounding property. It shall be the duty of the animal owner to comply with this Section and to maintain proper supervision and control over his or her animals at all times. When a potentially dangerous wild animal causes injury or damage, the responsibility shall be upon the animal owner and not the City or Pierce County.

**6-3I-3 Duty to Advise Purchaser/Recipient.**

Any person offering for sale or gift any animal in the City which falls within OMC 6-3I-2 shall have the duty to advise the purchaser or recipient of the wild nature of the animal and its vicious, venomous/poisonous, or dangerous propensities and of the fact that possession of such animal is regulated or prohibited by the City or Orting Municipal Code.

**6-3I-4 Allowing Wild or Vicious Animals to Run at Large Prohibited.**

No person owning or having charge, custody, control, or possession of any animal specified in OMC 6-3I-2 shall permit or allow the same to run at large upon any highway, street, lane, alley, court, or any other place, public or private, or within the premises of such person in such a manner as to endanger any person lawfully entering such premises.

**6-3I-5            Exception for Circuses, Zoos, and Transportation of Wild Animals.**

A.    OMC 6-3I-2 shall not apply to any person who has custody of any animal described in that Section in connection with the operation of any zoo or circus or any program of medical or scientific research, provided, such person has taken adequate measures to safeguard persons and property.

B.    OMC 6-3I-2 shall not apply to any person keeping, maintaining or having in his/her possession or under his control any animal defined in that Section when such person is transporting such animal through the City, provided, he/she has taken adequate safeguards to protect the public, and has notified the Police Chief of his/her proposed route of transportation and of the time that such trip is to take place.

**6-3I-6            Violations – Penalty – Continuing Offenses.**

A violation of this Chapter is a misdemeanor.

**Section 9. OMC Title 6, Chapter 3, Article J, Livestock Districts, Enacted.**

OMC Title 6, Police Regulations, Chapter 3, Animal Control, is hereby amended by the adoption of a new Article J, “Livestock Districts,” as follows:

**TITLE 6. POLICE REGULATIONS  
CHAPTER 3. ANIMAL CONTROL  
ARTICLE J. LIVESTOCK DISTRICTS**

Sections:

- 6-3J-1      Stock Restricted Area.
- 6-3J-2      Violations.

**6-3J-1            STOCK RESTRICTED AREA.**

All areas of the City of Orting are restricted areas where livestock may not run at large.

**6-3J-2            VIOLATIONS.**

The owner or other person having control or custody of any livestock at large is in violation of OMC 6-3C-2.

**Section 10. Severability.** Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**Section 11. Codification of Amendments.** The City Council authorizes the City Clerk to correct any non-substantive errors in Exhibits A through H, codify the amendments, and publish the amended code.

**Section 12. Effective Date.** This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force on September 1, 2016.

**FIRST READING ON AUGUST 10, 2016.**

**SECOND READING AND ADOPTION BY THE CITY COUNCIL AT A SPECIAL MEETING THEREOF ON THE 17TH DAY OF AUGUST, 2016.**

CITY OF ORTING

\_\_\_\_\_  
Joachim Pestinger, Mayor

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Jane Montgomery, City Clerk, CMC

Approved as to form:

\_\_\_\_\_  
Charlotte A. Archer, City Attorney  
Kenyon Disend, PLLC  
Filed with the City Clerk: August 4, 2016  
Passed by the City Council: August 17, 2016  
Ordinance No. 2016-986  
Date of Publication: August 19, 2016  
Effective Date: September 1, 2016

**CITY OF ORTING**  
**WASHINGTON**  
**ORDINANCE NO. 2016-987**

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**AN ORDINANCE OF THE CITY OF ORTING, WASHINGTON, ESTABLISHING NEW TITLE 4 (BUSINESS AND LICENSE REGULATIONS), CHAPTER 6 (LICENSING OF ANIMAL BUSINESSES), ARTICLE A (GENERAL PROVISIONS); ESTABLISHING TITLE 4, CHAPTER 6, ARTICLE B (BUSINESS LICENSE FEES); ESTABLISHING TITLE 4, CHAPTER 6, ARTICLE C (KENNEL OR CATTERY, GROOMING PARLOR, SHORT-TERM BOARDING FACILITY, OR PET SHOP); PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE**

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**WHEREAS**, the City of Orting is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington; and

**WHEREAS**, Orting Municipal Code (OMC) Title 5 contains the City's regulations businesses and licensure requirements therefor; and

**WHEREAS**, the Pierce County Auditor's Office and Pierce County Sheriff's Office together, hereinafter referred to as the County, is in the business of providing services related to the care and control of animals for Pierce County residents; and

**WHEREAS**, the City of Orting is in need of animal control and pet licensing services and desires to contract with Pierce County for its animal control and licensing services for dogs, cats and domestic animals; and

**WHEREAS**, on July 7, 2016, the City Council authorized the Mayor and City Manager to execute an interlocal agreement with the County to provide animal control and pet licensing services to the City; and

**WHEREAS**, as a condition of providing animal control and pet licensing services to the City, the interlocal agreement requires the City to adopt the licensure requirements for businesses focused on animals as adopted by the County;

**WHEREAS**, the City Council has determined that the proposed regulations are in accord with the Comprehensive Plan, will not adversely affect the public health, safety, or general welfare, and are in the best interest of the citizens of the City; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORTING, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1. New OMC Title 4, Business and License Regulations, Chapter 6, Licensing of Animal Business, Article A, “General Provisions,” Established.**

A new Orting Municipal Code Title 4, Chapter 6, Licensing of Animal Businesses, Article A, “General Provisions” is hereby established and adopted to read as follows:

**TITLE 4: BUSINESS AND LICENSE REGULATIONS  
CHAPTER 6: LICENSING FOR ANIMAL BUSINESSES  
ARTICLE A: GENERAL PROVISIONS**

Sections:

- 4-6A-1 Applicability.
- 4-6A-2 Definitions.
- 4-6A-3 Licenses Required.
- 4-6A-4 Requirements for Issuance or Renewal of License.
- 4-6A-5 Denial of License.
- 4-6A-6 Term of License.
- 4-6A-7 Probationary License – Temporary License.
- 4-6A-8 Renewal of License.
- 4-6A-9 Display of License.
- 4-6A-10 Suspension or Revocation of License.
- 4-6A-11 Appeals.
- 4-6A-12 Death or Incapacity of Licensee.
- 4-6A-13 Limitation of Transfers and Reapplications.
- 4-6A-14 Liability Insurance.
- 4-6A-15 Authorization to Enter and Inspect Premises.
- 4-6A-16 Civil Penalty.
- 4-6A-17 Notice and Order.
- 4-6A-18 Operating Without a License.
- 4-6A-19 Criminal Penalties.
- 4-6A-20 Right to Pick Up and Hold License.
- 4-6A-21 Validity of Title 4.
- 4-6A-22 License Fee – Nonrefundable.

**4-6A-1 Applicability.**

Unless otherwise provided, the provisions of this Chapter shall apply to all Chapters of Title 4 OMC.

**4-6A-2 Definitions.**

As used in this Title unless the context clearly indicates otherwise:

- A. "Council" means the City of Orting City Council.
- B. "Person" means and includes, but is not limited to, natural persons of either sex, firms, corporations, partnerships or associations.

C. "Examiner" means any hearing board or Hearing Examiner appointed by the City of Orting City Council

D. "Auditor" means the Pierce County Auditor and/or his agents.

#### **4-6A-3 Licenses Required.**

Licenses required are for regulation and control. This entire Title shall be deemed an exercise of the power of the State of Washington, Pierce County and the City of Orting to license for regulation and/or control and all its provisions shall be liberally construed for the accomplishment of either or both such purposes.

#### **4-6A-4 Requirements for Issuance or Renewal of License.**

No license required hereunder shall be issued except upon application therefor made in writing to the Auditor by filing the same with the Auditor. The Auditor shall provide application forms for each license under this Title, which shall require such information as the Auditor deems appropriate, in addition to the information required by the various licensing provisions of this Title, as now existing or hereafter amended. The applicant himself must prepare and sign the application. If the application is a partnership, a partner must sign and the names of the partners in full shall be given with their current residences. If the applicant is a corporation, an authorized officer thereof must sign and the names and current residences of all of the officers and directors or trustees of the corporation shall be given together with the location of the principal office or place of business of such corporation. All corporations must have a designated manager who meets the requirements of this Section. All corporations must designate an agent, who resides in Pierce County, to receive service for said corporation. The Auditor shall approve or deny all applications for license required hereunder.

No license shall be issued pursuant to the provisions of this Title to the following persons:

A. Any person who is not 18 years of age at the time of the application (except as may specifically otherwise be provided herein).

B. Any person who has been convicted of a felony or misdemeanor, excluding minor traffic violations, if:

1. the felony or misdemeanor for which he was convicted directly relates to the license sought, and
2. the time elapsed since the felony is less than ten years, or
3. the time elapsed since the misdemeanor is less than three years.

This Section shall not preclude the fact of any prior conviction of a felony or misdemeanor from being considered.

C. Any person who has had a license revoked within a period of one year prior to the date of making application for a license hereunder.

D. Any person who is not qualified under any specific provision of this Title for any particular license for which application is made.

E. Any person who at the time of application is in default in the payment of any sum due Pierce County for any license.

F. Any person whose license is under suspension or revocation at the time of application for a license.

G. Any partnership or corporation having as a partner, member of the board of directors, corporate officer or stockholder holding over 20 percent of the stock, anyone who does not meet the qualifications of this Section.

H. Any person who has made a materially false statement in the application for a license.

No license shall be issued unless the premises where the activity is to be conducted complies with the requirements of all governmental agencies, including, but not limited to, Federal, State, City and County resolutions relating to buildings, fire, health, sanitation, zoning, taxation, public safety, and all other requirements and conditions specifically set forth in other Sections of this Title.

The mere filing of an application for a license shall not give the applicant any right to engage in the activity covered thereby.

#### **4-6A-5 Denial of License.**

If the requirements for issuance or renewal of a license are not met, the application shall be denied by the Auditor. A decision regarding denial shall be in writing. The decision shall be mailed to the applicant to the address listed on the application via first class and certified mail with return receipt requested.

#### **4-6A-6 Term of License.**

Any license issued pursuant to the provisions of this Title, except a probationary license and those licenses for which a shorter term is herein specified, shall expire one year from the date of issuance unless sooner revoked in the manner provided for in this Chapter.

#### **4-6A-7 Probationary License – Temporary License.**

The Auditor may, if deemed in the public interest, grant a probationary license which shall authorize limited operation on such terms and conditions as the Auditor deems necessary to provide reasonable safeguards for the public against misuse of such license. Grounds for issuances of a probationary license include but are not limited to:

A. Applicant has had a business occupation license for any nature revoked within ten years prior to the date of application;

B. Applicant has been convicted of a felony within ten years prior to the date of application. Except as otherwise provided herein, the Auditor may issue a temporary license to be operative

pending the Sheriff's investigation, if a preliminary investigation indicates the applicant will more than likely receive a license.

#### **4-6A-8          Renewal of License.**

All licenses issued pursuant to the provisions of this Title, except as otherwise specifically provided, may be renewed at the expiration of the term thereof in the same manner as provided in OMC 4-6A-4 on or before 15 days from the date of expiration of such license. Any licensee who shall fail to submit application or make payment on or prior to the expiration date of said license shall be subjected to penalty payments in the following amounts:

- A. One to ten days inclusive – no penalty;
- B. Eleven days to thirty days inclusive – a penalty of 10 percent of the license fee or \$2.00, whichever is greater;
- C. Over thirty days – canceled. No person may continue to work subsequent to the expiration date of his license.

The Auditor shall review all applications for a renewal and cause such investigation, as he deems necessary, to be conducted.

All licenses issued subsequent to the initial license period shall be deemed renewal licenses if there has been no discontinuance of the licensee's operations or activities, or unless otherwise provided.

#### **4-6A-9          Display of License.**

Unless otherwise stated in the specific provisions of other Sections of this Title, all licenses issued pursuant to the provisions of this Title shall be posted on the device, vehicle or thing licensed or at the place where the licensed business, calling, profession, trade, occupation or activity is carried on, in such a manner as to be readily viewed by the general public.

#### **4-6A-10        Suspension or Revocation of License.**

The Auditor or any examiner appointed by the Council shall have the power and authority to suspend or revoke any license issued under the provisions of this Title when the Auditor determines that there are sufficient grounds for suspending or revoking any license issued pursuant to this Title. The Auditor shall notify such licensee in writing by certified mail of the suspension or revocation of his license and the grounds therefor. Notice mailed to the last business address on file with the Auditor shall constitute sufficient notice. In addition to grounds specifically provided in the individual licensing Sections, any license issued pursuant to the provisions of this Title may be suspended or revoked based on one or more of the following grounds:

- A. The license was procured by fraud or false representation of fact.
- B. The licensee has violated or failed to comply with any of the provisions of this Title.

C. The licensee, or any of his servants, agents, or employees while acting within the scope of their employment, has committed a felony or misdemeanor, excluding minor traffic violations.

D. The licensee or any of his servants, agents, or employees, while acting within the scope of their employment, have violated any law or resolution relating to the sale or possession of intoxicating liquor; the use, possession or sale of narcotic or dangerous drugs or violated any law or resolution relating to public morality and decency.

E. The conduct of the business or activity for which the license was issued has resulted in the creation of a nuisance or has caused disorderly conduct to occur on or immediately adjacent to the business premises.

F. The check submitted with the license application has been dishonored.

The City, the Auditor and Pierce County Sheriff are hereby designated as the enforcing officers of this Code. Any failure or refusal on the part of any licensee to obey any rule, regulation or request of the City or its agent, Auditor or his/her agent, or Sheriff or his/her agent, shall be grounds for the revocation of a license.

A decision regarding suspension or revocation shall be in writing. The decision shall be mailed to the applicant/licensee to the address listed on the application via first class and certified mail with return receipt requested.

The period of revocation shall be at least one year and the licensee shall not again be licensed for a similar business during such period or for such additional period as is fixed by the Auditor or Examiner.

The period of suspension shall be fixed by the Auditor or Examiner at not more than 365 days.

#### **4-6A-11 Appeals.**

A. An applicant/licensee shall have the right to appeal the Auditor's decision by submitting a written notice of appeal along with payment of a \$250.00 appeal fee to the Auditor within ten calendar days of the date of the decision.

B. The appeal shall be heard within 90 calendar days by the Examiner, unless the parties agree otherwise.

C. The timely filing of a notice of appeal and payment of the appeal fee by an applicant/ licensee shall stay the decision of the Auditor until a final decision is issued by the Examiner, unless the Examiner determines that the actions of the applicant/licensee constitutes an imminent danger to public health, safety, or welfare, in which case the Examiner may order that the action not be stayed pending appeal. A stay shall automatically terminate if the check that was submitted with the written appeal is dishonored.

D. Except as provided in this Section, the appeal shall proceed in accordance with the OMC 1-12-3.

E. The burden of proof shall be upon the County to show, by a preponderance of evidence, that the requirements for issuing a license have not been fulfilled, or that the applicant is ineligible for the license, or that the standards for suspending or revoking a license have been met.

F. The scope of evidence and the scope of review before the Examiner shall be de novo.

G. The Examiner may affirm, modify, or overrule the decision, and may reinstate the license and may impose any terms upon the continuance of the license which may seem advisable.

H. All decisions of the Examiner shall be rendered within 30 calendar days following the conclusion of all testimony. Copies of the decision shall be sent to the Auditor and the applicant/licensee.

I. If the applicant/licensee prevails on appeal, the appeal fee listed in this Section shall be refunded.

J. The decision of the Examiner shall be final, unless a writ of review is filed in Superior Court within 20 calendar days from the date the decision.

#### **4-6A-12 Death or Incapacity of Licensee.**

In the event of the incapacity, death, receivership, bankruptcy, or assignment for benefit of creditors of any licensee, then his guardian, executor, administrator, receiver, trustee in bankruptcy or assignee for benefit of creditors may, upon written authority from the Auditor or its designated agents, continue the business of the licensee on the licensed premises for the duration of the license, unless sooner terminated.

#### **4-6A-13 Limitation of Transfers and Reapplications.**

A. Except as provided herein, no individual may transfer a license issued pursuant to this Chapter.

1. This limitation shall not apply in any of the circumstances set forth in OMC 4-6A-12.

2. In the event of the withdrawal of a partner, the license may be transferred to the remaining partner or partners.

B. No reapplication for a license shall be made within a period of 90 days following a denial of such license.

C. No change shall be made in the management or officers of any licensed business unless said personnel comply with OMC 4-6A-4.

D. Unless otherwise specifically provided, no licensee shall change location without reapplying for a license. No portion of any prior licensee fee shall be refundable.

E. All corporations must have a designated manager.

#### **4-6A-14 Liability Insurance.**

Unless otherwise provided, such applicant for any license under this Title shall at all times maintain in full force and effect a policy of property damage and public liability insurance equal to the minimum state requirement for private vehicles on any vehicle used by said applicant, his servants, agents, or employees in the conduct of the business or thing licensed. A copy of such policy shall be filed with the Auditor with written endorsements thereon showing that the Auditor must be given written notice in the event of cancellation of said policy either by the company or the insured.

**4-6A-15 Authorization to Enter and Inspect Premises.**

By making application for the privilege of having any license included in this Title, each applicant authorizes the City or its agent, Auditor or his/her agent, the Sheriff and/or any other appropriate agency to enter and inspect to ensure compliance with Code provisions, all licensed premises, or any premises in any way connected physically or otherwise with a licensed business, including vehicles used in connection therewith, at any time during normal business hours.

**4-6A-16 Civil Penalty.**

In addition to, or as an alternative to any other penalty provided herein or by law, any person who engages in any activity, for which a license is required pursuant to the provisions of this Title, while his or her license is suspended or revoked, or who fails to obtain a license prior to engaging in the activity for which a license is required, shall be subject to a penalty not to exceed \$1,000.00 for each day of operation without a license, and shall be subject to such further penalties as set forth herein. The penalty shall be paid within 15 days unless a timely appeal is filed.

**4-6A-17 Notice and Order.**

The Auditor or his/her agent may issue a notice and order directed to the person whom the Auditor or his/her agent has determined to be in violation of any of the terms and provisions of this Title. The notice and order shall contain:

- A. The street address, when available, or a description sufficient for identification of the premises upon which the violation occurred;
- B. A statement that the Auditor or his/her agent has found a violation of this Title or the terms of any license with a brief and concise description of the violation;
- C. A statement of any corrective action required to be taken;
- D. If the Auditor or his/her agent has decided to assess a civil penalty, the order shall so state along with the payment due date;
- E. A statement that failure to comply with the instructions outlined in the notice and order will constitute sufficient grounds for suspension or revocation of the license;
- F. A statement advising:
  - 1. that the licensee may appeal the notice and order in accordance with OMC 4-6A-11, and;

2. that the failure to file a timely and complete appeal will constitute a waiver of all rights to an appeal.

The notice and order, and any amended notice and order, shall be served upon the person either personally or by mailing a copy of such notice and order by regular and certified mail with return receipt requested to such person at his address as it appears on the license.

**4-6A-18 Operating Without a License.**

Each day that any person operates any device, vehicle or thing, or engages in any business, calling, profession, trade, occupation or activity licensed herein without having a valid existing license as provided for by this Title shall constitute a separate offense and be punished as such.

**4-6A-19 Criminal Penalties.**

Except as otherwise specifically provided, any person violating or failing to comply with any of the provisions of this Title shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in any sum not exceeding \$1,000.00 or by imprisonment in the County jail for a period not exceeding 90 days or both, at the discretion of the court.

**4-6A-20 Right to Pick Up and Hold License.**

The City, Auditor or his agent and the Sheriff shall have the right to pick up and hold a license when a violation of this Title has been committed in his presence, to be held by the Auditor where said license could be used as evidence in a criminal or administrative hearing.

**4-6A-21 Validity of Title 4.**

If any phrase, phrases, Section or Sections of this Title are determined to be invalid, it shall not affect the validity of the other Sections of this Title.

**4-6A-22 License Fee – Nonrefundable.**

Any license fee submitted to the Auditor is nonrefundable.

**Section 2. New OMC Title 4, Chapter 6, Article B, Business License Fees, Enacted.**

A new Orting Municipal Code Title 4, Chapter 6, Article B, “Business License Fees” is hereby established and adopted to read as follows:

**TITLE 4: BUSINESS AND LICENSE REGULATIONS  
CHAPTER 6: LICENSING FOR ANIMAL BUSINESSES  
ARTICLE B: BUSINESS LICENSE FEES**

Sections:

- 4-6B-1 Kennel, Cattery, Grooming Parlor, Short-Term Boarding Facility, and Pet Shop Fees.
- 4-6B-2 Miscellaneous Fees.

**4-6B-1 KENNEL, CATTERY, GROOMING PARLOR, SHORT-TERM BOARDING FACILITY, AND PET SHOP FEES.**

The application for a commercial kennel or cattery, foster shelter/kennel/cattery, boarding kennel/cattery, hobby kennel/cattery, grooming parlor, private kennel/cattery, short-term boarding facility, or pet shop license as required by OMC 4-6C shall be accompanied by a fee as follows:

Commercial Kennel or Cattery	\$	250.00
Boarding Kennel or Cattery	\$	200.00
Foster Shelter/Kennel/Cattery		\$75.00 if all altered, \$150.00 if not
Hobby Kennel/Cattery (6 to 20 dogs and/or cats)	\$	150.00
Grooming Parlor	\$	100.00
Pet Shop	\$	200.00
Private Kennel/Cattery	\$	150.00
Short-Term Boarding Facility	\$	200.00

Any person who has a change in the category under which a permit was issued shall be subject to reclassification and an appropriate adjustment of the permit fee.

If the license is denied, no part of the application fee shall be refunded to the applicant.

**4-6B-2 MISCELLANEOUS FEES.**

A. Duplicate License Fee. Any licensee who makes a change in trade or corporate name or who loses or misplaces his license card or certificate may obtain a new card or certificate from the Auditor without the necessity of submitting a new application by the payment of a \$5.00 fee, provided, the license has not expired.

**Section 3. New OMC Title 4, Business and License Regulations, Chapter 6, Established.**

A new Orting Municipal Code Title 4, Chapter 6, Article C, “Kennel or Cattery, Grooming Parlor, Short-Term Boarding Facility, or Pet Shop” is hereby established and adopted to read as follows:

**TITLE 4: BUSINESS AND LICENSE REGULATIONS  
CHAPTER 6: LICENSING FOR ANIMAL BUSINESSES  
ARTICLE C: KENNEL OR CATTERY, GROOMING PARLOR, SHORT-TERM BOARDING FACILITY, OR PET SHOP**

Sections:

4-6C-1	Purpose.
4-6C-2	Exemption.
4-6C-3	Definitions.
4-6C-4	License Requirement.
4-6C-5	Application.
4-6C-6	License.
4-6C-7	Kennel Regulations.
4-6C-8	Advertising Limitations.
4-6C-9	License Expiration.
4-6C-10	License Renewal.
4-6C-11	License Suspension and Revocation.
4-6C-12	Appeals.
4-6C-13	Inspection.
4-6C-14	Impoundment.
4-6C-15	Civil Remedy.
4-6C-16	Criminal Penalty.
4-6C-17	Compliance.

**4-6C-1            PURPOSE.**

This Chapter is necessary to the peace, health, safety, and welfare of the people in the City of Orting and has as its purpose to provide for the humane care and treatment of animals; to provide for the control and regulation of facilities and kennels; to prevent nuisances; and to prevent endangerment of the health and safety of the public.

**4-6C-2            EXEMPTION.**

The provisions of this Chapter shall not apply to any facility which is owned, operated, or maintained by any city, county, state, or the federal government for the purpose of maintaining or possessing dogs.

**4-6C-3            DEFINITIONS.**

"Adult dog" and "Adult cat" means any dog or cat past the age of seven months.

"Animal" means any live vertebrate creature, domestic or wild.

"Animal Shelter" means any facility operated by the City of Orting or its authorized agents, for the purpose of impounding or caring for animals held under the authority of this Chapter or of state law.

"Boarding Kennel or Cattery" means any premises wherein a person engages in the business of boarding cats and dogs for private pet owners, for all or part of a day, including pet sitting establishments, and short-term boarding facilities for purposes other than veterinary medical procedures and observation. Any boarding kennel or cattery engaging in the business of breeding,

letting for hire, selling, bartering or giving any dogs and/or cats must be licensed as a commercial kennel or cattery.

"Commercial Kennel or Cattery" means any premises wherein a person(s) engages in the business of breeding and possibly boarding, letting for hire, selling, bartering, or giving away dogs and/or cats.

"Enforcement Agency" means the City of Orting, or such organization as designated by contract or ordinance of the City Council, including the Pierce County auditor.

"Enforcement Officer" means any City of Orting employee designated to enforce the provisions of this title, or the employee or agent of any other agency authorized to enforce the provisions of this Chapter.

"Foster Shelter/Kennel/Cattery" means any premises where at least six or more adult dogs and/or cats are kept and a person(s) provides temporary housing and care of owner released dogs/cats for the purpose of placing them into a permanent home. Animals kept more than 60 days will be considered owned by the person housing the animal and must be licensed under OMC 6-3D-2.

"Grooming Parlor" means any place or establishment, public or private, where animals are bathed, clipped, or combed for a consideration.

"Hobby Kennel or Cattery" means any premises where at least six but less than 20 adult dogs and/or cats are kept for hunting, breeding, for exhibition, organized events, field working, or obedience trials. Any person(s) or premises which exceeds the numbers or engages in practices beyond the definition herein for a hobby kennel or cattery, as determined by the enforcement agency, shall be subject to penalties and/or be required to purchase the appropriate license. Note: The occasional selling of offspring shall not be construed as a commercial venture.

"Impounding Authority" means City of Orting or any organization appointed by the City to impound animals and handle and care for impounded animals.

"Licensing Officer" means:

1. The Pierce County Auditor, or
2. Any officer, agency or organization appointed or empowered by the City to register and license dogs and/or cats.

"Kennel Facilities" are kennels, animal runs, enclosures, and/or any other building used for the keeping or housing of dogs and/or cats.

"Person" means any individual, firm, partnership, corporation, or unincorporated association.

"Pet Shop" means any person or establishment that acquires animals (dogs, cats, birds, fish, rodents, reptilians, primates, insects, and any/or all others) bred by others, whether as owner, agent, or on consignment, sells or boards any species of animals and offers to sell such animals to the public.

"Premises" includes a private house or dwelling.

"Private Kennel/Cattery" means any premises where at least six but less than 20 altered adult dogs and/or cats are kept as pets and not used for any other purpose than companionship for their owners. All pets are to be altered.

"Short-Term Boarding Facility" means any place of business or establishment that watches or houses animals for a fee for the owner.

"Temporary" as used in this Chapter means less than 60 days.

#### **4-6C-4 LICENSE REQUIREMENT.**

A. License Requirements – Generally. It shall be unlawful for any person to own, maintain, or have six or more dogs and/or cats, or operate a commercial kennel or cattery, boarding kennel/cattery, foster shelter/kennel/cattery, hobby kennel, grooming parlor, private kennel/cattery, short-term boarding facility, or pet shop, within the City without an applicable license as provided for by this Chapter.

Any person(s) who engages in more than one of the services or maintains more than one of the types of facilities cited in this Section shall pay all appropriate license fees as provided in OMC 4-6C-6.

Licensed veterinarians who, in addition to veterinary medical services on the premises, provide the ancillary services of boarding, grooming, and foster care for their patients, are exempt from the licensing requirements of this Chapter.

A noncommercial kennel with five or fewer dogs or cats must be licensed under OMC 6-3D-2 and not under this Chapter.

B. Transfer of License. If there is any change in ownership of any commercial kennel or cattery, boarding kennel/cattery, foster shelter/kennel/cattery, hobby kennel/cattery, grooming parlor, private kennel/cattery, short-term boarding facility, or pet shop, the new owner may have the current permit transferred to his or her name upon the payment of \$75.00 transfer fee and upon the approval of the Licensing Officer, or the Licensing Officer's designated agent.

C. Grounds for Denial. A permit or license may be denied for the following causes:

1. Conviction by the applicant of crimes related to animals.
2. Withholding or falsifying any information on the application.

D. Renewal. Upon compliance with OMC 4-6C-5 and the tender of any fees required by OMC 4-6C-6, the Licensing Officer, or the Licensing Officer's designated agent shall issue a renewal license, and the applicant for such license shall post such license in a conspicuous place upon the premises. A penalty fee of 100 percent of the license fee shall be assessed if the license application is not submitted by March 31. Payment of this penalty shall not preclude the imposition of penalties prescribed in OMC 4-6C-16 and 4-6C-17.

E. License – Required Information. Every license shall state on its face the name of the owner and operator of the animal facility, the address, the maximum number of animals which can be kept in the facility at any one time, and the expiration date of the license. The number of animals which can be kept in the facility at any one time shall be determined by the City who inspected the premises, and may be modified by the City from time to time if the facility conditions change. The location of any kennel shall not be changed without prior permission of the Licensing Officer, or the Licensing Officer’s designated agent, and such permission will be granted only after appropriate inspections have been conducted.

F. Records – Duty to Maintain. Every licensed person shall maintain records for three years (current year and past two years) on dogs and/or cats. Said records shall contain a list of the names and addresses of persons from whom animals are received and to whom animals are sold, traded, given away, or groomed. All animal transactions shall be listed on the records and these records shall be made available for inspection by the City and/or agent at all reasonable times for a specific reason.

#### **4-6C-5 APPLICATION.**

A. Application – Generally. Application for a new license under the provisions of this Chapter may be made at any time.

B. Application – Required Information. Any person applying for a license as required by this Chapter shall submit to the Licensing Officer, or the Licensing Officer’s designated agent, the following information:

1. The name and address of the person(s) owning the facility;
2. The name and address of the person(s) having the supervision of the facility;
3. The address or location of the facility;
4. The maximum number of dogs and/or cats or combination thereof which such facility will contain;
5. The name and address of the person designated by the applicant as agent for the service of legal process or notice;
6. A written statement or permit issued by the City Planning Department verifying that such commercial kennel or cattery, boarding kennel/cattery, foster shelter/kennel/cattery, hobby kennel/cattery, grooming parlor, private kennel/cattery, short-term boarding facility, or pet shop is in compliance with applicable zoning codes of the City;
7. A statement by the applicant giving permission for inspection of the facilities at any reasonable time;
8. A statement or permit from the Tacoma-Pierce County Health Department to insure that adequate provisions for sanitary facilities can be provided;

9. If the applicant is a pet store, a list of all species of animals; i.e., dogs, cats, birds, reptiles, primates, insects, fish, rodents, and any/or all others, that are to be sold;

10. The name and address of the licensed veterinarian who cares for the applicant's sick or injured animals;

11. Proof that the application indicates the appropriate type of kennel category (commercial kennel or cattery, boarding kennel/cattery, foster shelter/kennel/cattery, hobby kennel/cattery, grooming parlor, private kennel/cattery, short-term boarding facility, or pet shop). Proof may be in the form of a business license, a bona fide membership in a purebred animal club, or other such evidence acceptable to the Licensing Officer.

#### **4-6C-6 LICENSE.**

Upon compliance with OMC 4-6C-5 and the tender of any fees as required by OMC 4-6C-6, the Licensing Officer or the Licensing Officer's designated agent, shall issue a license for such commercial kennel or cattery, boarding kennel/cattery, foster shelter/kennel/cattery, hobby kennel/cattery, grooming parlor, private kennel/cattery, short-term boarding facility, or pet shop.

A. Duty to Comply. The licensee shall comply with all standards, rules and regulations set forth in this Chapter throughout the licensing period.

B. Duty to Post. The licensee shall post such license in a conspicuous place upon the premises where such commercial kennel or cattery, boarding kennel/cattery, foster shelter/kennel/cattery, hobby kennel/cattery, grooming parlor, private kennel/cattery or pet shop is maintained.

C. Distribution. The Licensing Officer or the Licensing Officer's designated agent, will distribute each license to the following agencies:

1. Pierce County Fire Prevention Bureau
2. Pierce County Planning and Land Services Department
3. Tacoma-Pierce County Health Department.

#### **4-6C-7 KENNEL REGULATIONS.**

A. The City shall promulgate such standards, rules, and regulations as are necessary for the operation of this Chapter. The standards for inspections are attached hereto and made a part by reference herein. These standards, rules, and regulations shall be developed in conjunction with one representative from each group covered under this Chapter and a representative from Departments listed in OMC 4-6C-6(C). These standards, rules, and regulations may be amended and shall include, but are not limited to, the following:

1. Sanitation and safety regulations;
2. Minimum standards for food and water;

3. Standards for facility construction and maintenance;
4. Classification and separation of animals;
5. Requirements for veterinarian care.

B. A copy of the standards, rules, and regulations promulgated by the City shall be furnished to each applicant for a license or license renewal.

C. Initial application for any of the licenses covered under this Chapter shall be provisional and will be issued after the applicant complies with these regulations and any rules and regulations that may subsequently be formulated. The applicant must be in total compliance with the rules and regulations at the end of six months or within a correction time schedule for compliance with this Chapter.

D. **Kennel Facilities – Minimum Requirements.**

1. Any person keeping more than 10 dogs and/or cats must provide Kennel Facilities.
2. Kennel Facilities shall comply with all applicable zoning regulations, including setback requirements.
3. Owners and Operators of any kennel shall comply with the rules and regulations referenced in OMC 4-6C-4.
4. All dogs and cats over the age of seven months shall be included as part of the kennel for payment of fees.

**4-6C-8 ADVERTISING LIMITATIONS.**

No hobby kennel or private kennel/cattery shall have signs, displays, or other visual representation advertising animals for sale or breeding.

**4-6C-9 LICENSE EXPIRATION.**

Each license issued under the authority and provisions of this Chapter shall expire on December 31 of the year of issuance.

**4-6C-10 LICENSE RENEWAL.**

All license renewals shall be processed in the same manner as the original application except that a written statement from the agencies listed in listed in OMC 4-6C-6(C) will not be required. License renewals shall require the applicant to prove that the facility is still used for the same category of kennel activity (commercial kennel or cattery, foster shelter/kennel/cattery, hobby kennel, grooming parlor, private kennel/cattery, short-term boarding facility, or pet shop). Proof may be in the form of a business license, a bona fide membership in a purebred animal club, or other such evidence acceptable to the Licensing Officer or the Licensing Officer's designated agent.

#### 4-6C-11

#### LICENSE SUSPENSION AND REVOCATION.

Any license issued for commercial kennel or cattery, foster shelter/kennel/cattery, hobby kennel, grooming parlor, private kennel/cattery or pet shop under the provisions of this Chapter shall be subject to suspension or revocation if the City or its designee determines that such commercial kennel or cattery, foster shelter/kennel/cattery, hobby kennel, grooming parlor, private kennel/cattery, short-term boarding facility, or pet shop is being operated in violation of this Chapter.

The City or any examiner appointed by the City Council shall have the power and authority to suspend or revoke any license issued under the provisions of this Chapter when the City determines that there are sufficient grounds for suspending or revoking any license issued pursuant to this Chapter. The City shall notify such licensee in writing by certified mail of the suspension or revocation of his license and the grounds therefor. Notice mailed to the last business address on file with the City shall constitute sufficient notice. In addition to grounds specifically provided in the individual licensing Sections, any license issued pursuant to the provisions of this Chapter may be suspended or revoked based on one or more of the following grounds:

- A. The license was procured by fraud or false representation of fact.
- B. The licensee has violated or failed to comply with any of the provisions of this Chapter.
- C. The licensee, or any of his servants, agents, or employees while acting within the scope of their employment, has committed a felony or misdemeanor, excluding minor traffic violations.
- D. The licensee or any of his servants, agents, or employees, while acting within the scope of their employment, have violated any law or resolution relating to the sale or possession of intoxicating liquor; the use, possession or sale of narcotic or dangerous drugs or violated any law or resolution relating to public morality and decency.
- E. The conduct of the business or activity for which the license was issued has resulted in the creation of a nuisance or has caused disorderly conduct to occur on or immediately adjacent to the business premises.
- F. The check submitted with the license application has been dishonored.

Any failure or refusal on the part of any licensee to obey any rule, regulation or request of the Enforcement Agency, or Enforcement Official, shall be grounds for the revocation of a license.

A decision regarding suspension or revocation shall be in writing. The decision shall be mailed to the applicant/licensee to the address listed on the application via first class and certified mail with return receipt requested.

The period of revocation shall be at least one year and the licensee shall not again be licensed for a similar business during such period or for such additional period as is fixed by the City or examiner.

The period of suspension shall be fixed by the City or examiner at not more than 365 days.

**4-6C-12 APPEALS.**

The denial, revocation or suspension of any license issued under the provisions of this Chapter may be appealed to the Hearing Examiner, pursuant to the procedures set forth in OMC 1-12-3.

The sole method of judicial review from a decision of the Hearing Examiner shall be before the Superior Court for Pierce County. Notice of appeal shall be filed with the Clerk of the Court within 10 days of the action or decision by which a person is aggrieved.

Any person whose license or permit is revoked shall, within 30 days thereafter, humanely dispose of all animals owned, kept, or harbored by such person, or be sold, or given away, and no part of the permit or license fee shall be refunded.

**4-6C-13 INSPECTION.**

It shall be a condition of the issuance of any permit or license that the City or its designee be permitted to inspect all animals, and the premises where animals are kept, at reasonable intervals to protect the health and safety of the animals and of the community. If permission for such inspection is refused, the permit or license of the refusing owner may be revoked.

An enforcement officer shall have the authority to enter the premises if a permit or license holder is keeping animals in his/her own residence.

**4-6C-14 IMPOUNDMENT.**

An enforcement officer may impound any animal that is disabled or diseased because of neglect, abuse, or improper care, or whose condition constitutes a threat or danger to the public health or safety.

**4-6C-15 CIVIL REMEDY.**

Whenever a violation of the provisions of this Chapter constitutes a public nuisance, the Prosecuting Attorney may bring action on behalf of the City or the enforcement agency, for abatement, damages, and/or mandatory or prohibitory relief as provided for by law.

**4-6C-16 CRIMINAL PENALTY.**

Any person convicted of a violation of this Chapter shall be deemed guilty of a misdemeanor, and in addition to any other remedies or penalties specifically provided for herein, may be punished by a fine of not more than \$250.00, or by imprisonment not to exceed 90 days, or both such fine and imprisonment.

**4-6C-17 COMPLIANCE.**

Compliance with the provisions of this Chapter shall not be deemed compliance with, or eliminate the necessity for compliance with, other applicable provisions of the laws of the State of Washington, Pierce County, or the City.

**Section 4. Severability.** Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**Section 5. Codification of Amendments.** The City Council authorizes the City Clerk to correct any non-substantive errors in Exhibits A-C hereto, codify the amendments, and publish the amended code.

**Section 6. Effective Date.** This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force September 1, 2016.

**FIRST READING ON AUGUST 10, 2016.**

**SECOND READING AND ADOPTION BY THE CITY COUNCIL AT A SPECIAL MEETING THEREOF ON THE 17TH DAY OF AUGUST, 2016.**

CITY OF ORTING

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Joachim Pestinger, Mayor

ATTEST/AUTHENTICATED:

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Jane Montgomery, City Clerk, CMC

Approved as to form:

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Charlotte A. Archer  
Kenyon Disend, PLLC  
City Attorney

Filed with the City Clerk: 7.28.16  
Passed by the City Council: 8.17.16  
Ordinance No. 2016-987  
Date of Publication: August 19, 2016  
Effective Date: September 1, 2016

**CITY OF ORTING**  
**WASHINGTON**  
**ORDINANCE NO. 2016-988**

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**AN ORDINANCE OF THE CITY OF ORTING,  
WASHINGTON, AMENDING ORTING MUNICIPAL CODE  
SECTION 1-4-1 (GENERAL PENALTY); PROVIDING FOR  
SEVERABILITY; AND ESTABLISHING AN EFFECTIVE  
DATE**

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**WHEREAS**, the City of Orting is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington; and

**WHEREAS**, Orting Municipal Code (OMC) Title 1, Chapter 4, contains the City's general penalties for violations of the municipal code, as well as the penalties and procedures for the issuance and enforcement of civil infractions, pursuant to Chapter 7.08 RCW; and

**WHEREAS**, the Pierce County Auditor's Office and Pierce County Sheriff's Office together, hereinafter referred to as the County, is in the business of providing services related to the care and control of animals for Pierce County residents; and

**WHEREAS**, the City of Orting is in need of animal control and pet licensing services and desires to contract with Pierce County for its animal control and licensing services for dogs, cats and domestic animals; and

**WHEREAS**, on July 7, 2016, the City Council authorized the Mayor and City Manager to execute an interlocal agreement with the County to provide animal control and pet licensing services to the City; and

**WHEREAS**, as a condition of providing animal control and pet licensing services to the City, the interlocal agreement requires the City to adopt the County's regulations for civil infractions as they relate to animal business licensing, animal control enforcement and penalties;

**WHEREAS**, the City Council has determined that the proposed regulations are in accord with the Comprehensive Plan, will not adversely affect the public health, safety, or general welfare, and are in the best interest of the citizens of the City; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORTING, WASHINGTON,  
DO ORDAIN AS FOLLOWS:**

**Section 1. OMC Title 1, Chapter 4, Section 1, Amended.**

Orting Municipal Code Title 1, Administration, Chapter 4, General Penalty, Section 1, “General Penalty,” is hereby amended to read as follows:

**ORTING MUNICIPAL CODE  
TITLE 1: ADMINISTRATION  
CHAPTER 4: PENALTIES**

Sections:

OMC 1-4-1	GENERAL PENALTY
OMC 1-4-2	CIVIL INFRACTIONS

**1-4-1 GENERAL PENALTY**

The following penalties shall be applicable to violations of this code:

A. Misdemeanors: Whenever in this code or any noncodified ordinances of the city, any act or omission is made unlawful, such act or omission shall, unless otherwise specified therein, constitute a misdemeanor. Any act or omission constituting a misdemeanor for which no penalty is specifically provided shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for up to ninety (90) days in jail, or by both such fine and imprisonment.

B. Gross Misdemeanors: Whenever in this code or any noncodified ordinances of the city, any act or omission is made unlawful and such act or omission is classified therein as a gross misdemeanor, such act or omission shall, unless otherwise specified therein, be punishable by a fine not to exceed five thousand dollars (\$5,000.00) or imprisonment up to one year in jail, or by both such fine and imprisonment.

C. Consistency With State Law: Notwithstanding any other provisions in this code or the noncodified ordinances of the city, the maximum penalty for any act or omission constituting a criminal offense under this code or the noncodified ordinances of the city, shall be the same as the maximum penalty provided in Washington state law for the same or similar offense, and where the maximum penalty provided under this code or the noncodified ordinances of the city is inconsistent with the maximum penalty as provided pursuant to state law, such maximum penalty as provided under state law shall prevail. The purpose and intent of this provision is to comply with Revised Code of Washington 35.21.163 and 35A.11.020 as now or may be hereinafter amended.

#### 1-4-2 CIVIL INFRACTIONS:

1. Definitions: The definitions set forth in this Section shall apply throughout this Chapter:

A. "Civil Infraction" shall mean a violation of the Orting Municipal Code, permit or permit conditions, or Hearing Examiner decision for which a monetary penalty may be imposed under this Chapter. Each day or portion thereof during which a violation occurs or exists shall be deemed a separate civil infraction.

B. "Code" shall mean any provision of the Orting Municipal Code.

C. "City" shall mean City of Orting.

D. "Court" shall mean the Orting Municipal Court.

F. "Enforcement Officer" shall mean any person authorized by the City to enforce the provisions of the Code, permit and permit conditions, Hearing Examiner decisions or ordinance in which the civil infraction is established, but shall not include private citizens. Enforcement Officer shall include any person authorized by the City pursuant to an interlocal agreement or contract for the purposes of enforcing this Code.

G. "Hearing Examiner Decision" shall mean any report and decision, interim order or decision, or decision on reconsideration issued by the Hearing Examiner pursuant to the Orting Municipal Code.

H. "May" shall mean optional and permissive and does not impose a requirement.

I. "Permit or Permit Conditions" shall mean an official authorization, license, document, certificate, or other written permission or conditions attached thereto given to a person by the City or by the Hearing Examiner authorizing any person to perform a specified activity.

J. "Person" shall mean an individual, partnership, corporation, or other legal entity.

K. "Prosecuting Attorney" shall mean the Orting Prosecuting Attorney or Deputy Prosecuting Attorney.

L. "Shall" means mandatory and imposes a requirement.

2. Authorization: This Chapter is adopted pursuant to the provisions of Chapter 7.80 RCW as now enacted or hereafter amended. Nothing contained herein is in any way intended to diminish or limit the powers granted to City public officials through application of Revised Code Of Washington chapter 7.80 and the infraction rules for courts of limited jurisdiction.

3. Issuance: An Enforcement Officer, the Prosecuting Attorney, and the Court shall have authority to issue a notice of infraction for each civil infraction committed in accordance with the provisions, and under authority of Revised Code of Washington chapter 7.80 and pursuant to the infraction rules for courts of limited jurisdiction. Notwithstanding any other provision of law governing service of process in civil cases, a court of limited jurisdiction having jurisdiction over an alleged civil infraction may issue process anywhere within Washington State.

4. Procedures; Municipal Court; Exclusions: It is the intent of this chapter that civil infractions may be heard and determined by the Orting municipal court in accordance with the provisions, and under authority, of Revised Code Of Washington chapter 7.80 and pursuant to the infraction rules for courts of limited jurisdiction; provided that, traffic and vehicle infractions provided for pursuant to title 7 of this code are specifically excluded from this chapter.

A. Notice of Infraction – Issuance, Service, Filing.

1. A civil infraction proceeding is initiated by the issuance, service, and filing of a notice of civil infraction.

2. A notice of civil infraction may be served and issued by an Enforcement Officer when the civil infraction occurs in the Enforcement Officer's presence.

3. A court may issue a notice of civil infraction if an Enforcement Officer files a notice of civil infraction with the court stating that the civil infraction was committed in the Enforcement Officer's presence or that the Enforcement Officer has reasonable cause to believe that a civil infraction was committed.

4. Service of a notice of civil infraction issued under subsection 2. or 3. of this Section shall be as provided by court rule.

5. A notice of civil infraction, if issued under subsection 2. of this Section, shall be filed with the court within forty-eight hours of issuance, excluding Saturdays, Sundays, and holidays. A notice of civil infraction not filed within the time limits prescribed in this Section may be dismissed without prejudice.

5. Person Receiving Notice – Identification.

A person who is issued a notice of civil infraction under OMC 1-4-2 is required to identify himself or herself to the Enforcement Officer by giving his or her name, address, and date of birth. Upon request of the Enforcement Officer, the person shall produce reasonable identification, such as a driver's license or identicard.

6. Notice – Determination Final Unless Contested – Form.

A. The filing of a notice of civil infraction with the court represents a determination that a civil infraction has been committed. The determination is final unless contested as provided for in this Chapter.

B. The form for the notice of civil infraction may be as prescribed by rule of the Washington Supreme Court and, in addition, shall include the following:

1. A statement that the notice of civil infraction represents a determination that a civil infraction has been committed by the person named in the notice and that the determination is final unless contested as provided for in this Chapter;
2. A statement that a civil infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction;
3. A statement or description of the specific civil infraction for which the notice was issued and a reference to the Code provision(s), permit or permit conditions, or Hearing Examiner decision that has been violated;
4. A statement of the monetary penalty established for the civil infraction committed;
5. A statement of the options provided for in this Chapter for responding to the notice of civil infraction and the procedures necessary to exercise these options;
6. A statement that at any hearing to contest the determination of the City, the City has the burden of proving, by a preponderance of the evidence, that the civil infraction was committed and that the person may subpoena witnesses including the Enforcement Officer who issued the notice of civil infraction;
7. A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the civil infraction, the person shall be deemed to have committed the civil infraction and may not subpoena witnesses;
8. A statement that the person must respond to the notice as provided for in this Chapter within 15 days;
9. A statement that failure to respond to the notice of civil infraction or failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances will result in a default judgment against the person in the amount of the penalty, with statutory assessment, and that this failure may be referred to the Prosecuting Attorney for criminal prosecution for failure to respond or appear;
10. A statement that failure to respond to the notice of civil infraction or failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances will result in the imposition of a penalty in the amount of \$25.00 plus statutory assessments;
11. A statement, which the person shall sign, that the person promises to respond to the notice of civil infraction in one of the ways provided for in this Chapter;

12. A statement that failure to respond to a notice of civil infraction as promised or to appear at a requested hearing is a misdemeanor and may be punished by a fine or imprisonment in jail or both;

13. A statement that all information upon which the notice of civil infraction is based shall be provided upon written request to the Enforcement Officer who issued the notice of civil infraction.

7. Monetary Penalties; Restitution: All persons deemed or found to have committed a civil infraction shall be subject to assessment and payment of monetary penalties and restitution as follows, unless otherwise provided by law:

A. The maximum penalty and the default amount for a civil infraction designated as a class 1 civil infraction shall be six hundred dollars (\$600.00), not including statutory assessments;

B. The maximum penalty and the default amount for a civil infraction designated as a class 2 civil infraction shall be three hundred dollars (\$300.00), not including statutory assessments;

C. The maximum penalty and the default amount for a civil infraction designated as a class 3 civil infraction shall be one hundred and twenty dollars (\$120.00), not including statutory assessments; and

D. The maximum penalty and the default amount for a civil infraction designated as a class 4 civil infraction shall be sixty dollars (\$60.00), not including statutory assessments.

E. All civil infractions which are not classified in this code as class 1, class 2, class 3 or class 4 civil infractions, are hereby designated as class 1 civil infractions.

8. Restitution: The court may also order a person found to have committed a civil infraction to make community restitution.

9. When Payment Due:

A. Whenever a monetary penalty is assessed by a court for a violation or violations constituting a civil infraction under this chapter it is immediately payable. If the person is unable to pay at that time the court may grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the city attorney of the failure to pay.

B. The court may consider dismissing with costs only upon a showing that the violation was corrected within 30 days.

C. Payment of a monetary penalty or performance of the required community service shall not relieve a person of the duty to correct the violation.

10. Failure To Respond; Misdemeanor:

A. Any person who receives a notice of civil infraction shall respond to such notice as provided for in this Section within 15 days of the date of the notice.

B. If the person determined to have committed the civil infraction does not contest the determination, the person shall respond by completing the appropriate portion of the notice of civil infraction and submitting it, either by mail or in person, to the court specified on the notice. A

check or money order in the amount of the civil penalty prescribed for the civil infraction must be submitted with the response. The clerk of a court may accept cash as payment for a civil infraction. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records.

C. If the person determined to have committed the civil infraction does contest the determination, the person shall respond by completing that portion of the notice of civil infraction requesting a hearing and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be earlier than 14 days nor more than 90 days from the date of the notice of hearing.

D. If the person determined to have committed the civil infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction, the person shall respond by completing that portion of the notice of civil infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be earlier than 14 days nor more than 90 days from the date of the notice of hearing.

E. The court may notify the Prosecuting Attorney of the failure to respond to the notice of civil infraction, or to appear at a requested hearing, or to comply with a court order and shall enter a default judgment as provided for in this Section assessing the monetary penalty prescribed for the civil infraction, with statutory assessment, if any person issued a notice of civil infraction fails to:

1. Respond to the notice of civil infraction as provided in subsection B. of this Section; or
2. Appear at a hearing requested pursuant to subsection C. or D. of this Section; or
3. Comply with a court order.

F. If any person issued a notice of civil infraction fails to respond to the notice of civil infraction as provided in subsection B. above or fails to appear at a hearing requested under subsection C. or D. above, a monetary penalty in the amount of \$25.00 plus statutory assessments shall be imposed.

11. Hearings – Rules of Procedure - Counsel

A. Procedures for the conduct of all hearings provided in this Chapter may be established by rule of the Washington Supreme Court.

B. Any person subject to proceedings under this Chapter may be represented by legal counsel.

C. The attorney representing the City may appear in any proceedings under this Chapter but need not appear, notwithstanding any statute or rule of court to the contrary.

12. Hearings – Contesting Determination that Infraction Committed – Appeal.

A. A hearing held for the purpose of contesting the determination that a civil infraction has been committed shall be without a jury and shall be recorded in the manner provided for in courts of limited jurisdiction.

B. In lieu of the Enforcement Officer's personal appearance at the hearing, the court may consider the notice of civil infraction and any other written report as long as the report is made under oath, submitted by the Enforcement Officer who issued the notice or who filed the notice of civil infraction was the basis for the issuance of the notice. The person named in the notice of civil infraction may request the court for issuance of subpoena of witnesses, including the Enforcement Officer who issued the notice, and has the right to present evidence and examine witnesses present in court.

C. The burden of proof is upon the City to establish the commission of the civil infraction by a preponderance of the evidence.

D. After consideration of the evidence and argument, the court shall determine whether the civil infraction was committed. Where it has not been established by a preponderance of the evidence that the civil infraction was committed, an order dismissing the notice of civil infraction shall be entered in the court's records. Where it has been established by a preponderance of the evidence that the civil infraction was committed, an appropriate order shall be entered in the court's records.

E. An appeal from the court's determination or order shall be to the Superior Court in the manner provided by the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. The decision of the Superior Court is subject only to discretionary review pursuant to the Rules of Appellate Procedure.

13. Hearings – Explanation of Mitigating Circumstances.

A. A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of a civil infraction shall be an informal proceeding. The person shall not be allowed to subpoena witnesses. At a hearing held for the purpose of explaining mitigating circumstances, the court shall not allow the determination that a civil infraction has been committed to be contested.

B. After the court has heard the explanation of the circumstances surrounding the commission of the civil infraction, an appropriate order shall be entered in the court's records.

C. There is no appeal from the court's determination or order under this Section.

14. **Prohibited Acts Include Causing And Permitting:** Whenever in this code or the noncodified ordinances of the city, any act or omission constitutes a civil infraction, it includes causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.

15. **Separate Offense:** Every act or omission which constitutes a civil infraction under this code, shall constitute a separate offense for each and every day during any portion of which the act or omission constituting the violation is committed, continued or permitted.

16. **Order of Court – Civil Nature – Modification of Penalty – Community Service.**

A. An order entered after the receipt of a response which does not contest the determination, or after it has been established at a hearing that the civil infraction was committed, or after a hearing for the purpose of explaining mitigating circumstances is civil in nature.

B. The court may waive, reduce, or suspend the monetary penalty prescribed for the civil infraction. If the court determines that a person has insufficient funds to pay the monetary penalty, the court may order performance of a number of hours of community service in lieu of a monetary penalty, at the rate of the current Washington State minimum wage per hour.

17. **Costs and Attorney Fees.**

Each party to a civil infraction case is responsible for costs incurred by that party, but the court may assess witness fees, including expert witness fees, against a nonprevailing respondent.

18. **Notice, Failure to Sign, Nonappearance – Failure to Satisfy Penalty.**

A. A person who fails to sign a notice of civil infraction is guilty of a misdemeanor.

B. Any person willfully violating his or her written and signed promise to respond to a notice of civil infraction is guilty of a misdemeanor, regardless of the disposition of the notice of civil infraction; **PROVIDED**, that a written promise to appear in court or a written promise to respond to a notice of civil infraction may be complied with by an appearance by counsel.

C. A person who willfully fails to pay a monetary penalty, restitution, or perform community service as required by a court under this Chapter may be found in contempt of court as provided in Chapter 7.21 RCW.

**Section 2. Severability.** Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**Section 3. Codification of Amendments.** The City Council authorizes the City Clerk to correct any non-substantive errors in Exhibit A hereto, codify the amendments, and publish the amended code.

**Section 4. Effective Date.** This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force September 1, 2016.

**FIRST READING ON AUGUST 10, 2016.**

**SECOND READING AND ADOPTION BY THE CITY COUNCIL AT A SPECIAL MEETING THEREOF ON THE 17<sup>TH</sup> DAY OF AUGUST, 2016.**

CITY OF ORTING

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Joachim Pestinger, Mayor

ATTEST/AUTHENTICATED:

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Jane Montgomery, City Clerk

Approved as to form:

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Charlotte A. Archer  
Kenyon Disend PLLC  
City Attorney

Filed with the City Clerk: August 4, 2016  
Passed by the City Council: August 17, 2016  
Ordinance No. 206-988  
Date of Publication: August 19, 2016  
Effective Date: September 1, 2016

**CITY OF ORTING  
WASHINGTON  
ORDINANCE NO. 2016-989**

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**AN ORDINANCE OF THE CITY OF ORTING, WASHINGTON, REPEALING AND REPLACING ORTING MUNICIPAL CODE ARTICLE B (LIVESTOCK) OF CHAPTER 3 (ANIMAL CONTROL) OF TITLE 6 (POLICE REGULATIONS); REGARDING REGULATION OF LIVESTOCK WITHIN CITY; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE**

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**WHEREAS**, the City of Orting is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington; and

**WHEREAS**, in 1973, the City first adopted animal control regulations regarding livestock and fowl; and

**WHEREAS**, in 1995 and 1996, the City adopted additional animal control regulations cattle, hogs, poultry, horses and rabbits; and

**WHEREAS**, Orting Municipal Code (OMC) Title 6, Chapter 3 contains the City's animal control regulations; and

**WHEREAS**, the City undertook a review of OMC Title 6, Chapter 3 in 2016; and

**WHEREAS**, the City of Orting Planning Commission created an Ad Hoc Committee to propose necessary revisions to update and clarify the City's regulations regarding animals, livestock and other animals;

**WHEREAS**, the City of Orting Planning Commission considered the proposed regulations at several properly noticed public meetings, and voted to recommend approval of the proposed regulations on May 2, 2016; and

**WHEREAS**, the City Council has determined that the proposed regulations are in accord with the Comprehensive Plan, will not adversely affect the public health, safety, or general welfare, and are in the best interest of the citizens of the City; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORTING, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1. OMC Title 6, Chapter 3, Article B, Repealed and Replaced.** Orting Municipal Code Title 6, Chapter 3, Article B is hereby repealed and replaced in its entirety with the following:

**CHAPTER 3  
ANIMAL CONTROL  
ARTICLE B. LIVESTOCK - OTHER ANIMALS**

**SECTION:**

- 6-3B-1: INTRODUCTION; INTENT
- 6-3B-2: DEFINITIONS
- 6-3B-3: CATTLE
- 6-3B-4: HOGS
- 6-3B-5: POULTRY; FOWL; RABBITS
- 6-3B-6: HORSES
- 6-3B-7: BEES
- 6-3B-8: PUBLIC RIGHTS OF WAY
- 6-3B-9: PROVISIONS NOT APPLICABLE TO CERTAIN FARMS
- 6-3B-10: VIOLATION; PENALTY
- 6-3B-11: PROVISIONS NOT EXCLUSIVE

**6-3B-1: INTRODUCTION; INTENT:**

The City of Orting finds there is a need to accommodate farming activity commonly referred to as urban agriculture. This can include a range of activities, such as production of food on a single family residential lot for a family's personal use, urban vegetable gardens on common property for community use, or a small commercial farm activity located in areas zoned for this use.

While agricultural activity has often been considered inconsistent with smart growth principals of accommodating density in urban areas, the two do not need to be mutually exclusive. Urban agricultural activity for personal use on individual single family lots, or on common property for community agricultural use, or in the form of small commercial urban farms, can add to the urban fabric and create a richer context for urban neighborhoods. These beneficial uses can be accommodated without sacrificing the objectives of the state Growth Management Act (GMA) and designated urban areas.

Urban agricultural activities managed in a responsible way, with sensitivity to urban density and land use compatibility issues, can benefit the individuals participating in the activity and the community at large by providing fresh produce, additional food choices, economic development opportunity, a more sustainable lifestyle and urban neighborhoods with more variety and interest. This section has been developed with the purpose of providing Orting citizens an opportunity to participate and benefit from these activities.

**6-3B-2: DEFINITIONS:**

A. Terms Defined: As used in this article, unless the context indicates otherwise, the following definitions shall apply:

ADEQUATE CARE means providing the following to animals:

1. Food or feed appropriate to the species for which it is intended. Both food and water must be in sufficient quantity, quality, and form appropriate to sustain the animals and should be in containers designed and situated to allow the animal easy access; and
2. A shelter that keeps the animals in a healthful, sanitary, warm, dry, and safe condition, and allows the animal to turn around freely, sit, stand, and lie without restriction, and by application does not cause injury, disfigurement, or physical impairment to the animal.
3. Adequate veterinary medical care.

ANIMAL means any nonhuman mammal, bird, reptile or amphibian including livestock and poultry as defined herein.

ANIMAL CONTROL AUTHORITY: Means the City of Orting City Administrator and/or his designee's directed to enforce the animal control laws of the city.

ANIMAL CONTROL OFFICER means:

1. Any individual employed, contracted with or appointed by the animal control authority for the purpose of aiding in the enforcement of this chapter or any other law relating to the licensure, control or seizure and impoundment of animals;
2. Any state or local law enforcement officer or code enforcement officer; or
3. Any other official whose duties in whole or in part include the seizure and impoundment of any animal.

AT LARGE: means off the premises of the owner, whether licensed, permitted or not, and not under control of the owner or any other person to whom the animal may be entrusted by the owner, either by leash or cord, halter, rein, rope, or by carrier. For the purpose of this section, the animal is presumed not to have been under control and to be at large if the person purporting to exercise control is unable to immediately cause the animal to come under control by restraint or giving the appropriate voice command; or when an at large animal interferes with pedestrian or vehicular movement or causes affront or alarm to a person or if injury, damage has been caused by the animal or trespass has occurred.

**BEST MANAGEMENT PRACTICES (BMP)** means the use of best management practices, such as pasture rotation, manure management, stream and pond buffering, planting trees, etc. to help land and animals to remain healthy. These practices help to keep pasture grasses in better condition, prevent soil erosion and compaction, reduce dust and keep the air cooler in hot weather. These are benefits that also carry over to the community as a whole. Federally regulated storm water best management practice policies and procedures-(BMPs) are in place (OMC 9-5) in addition to wetlands BMPs (OMC 11-4-1) All activities permitted in this Code, including facilities and farms, should comply with or exceed the BMP requirements. Regulations cover water quality, quantity and prevention of soil erosion related to storm water runoff and wetlands. The City reserves to right to develop and initiate other BMPs as may be required through other regulations, including air quality related to dust, etc.

**HARBORS, KEEPS, AND POSSESSES, OR MAINTAINS:** means providing care, shelter, protection, refuge, food, or nourishment in such manner as to influence the behavior of the animal; or, treating the animal as living at one's property.

**HIVE:** A structure intended for the housing of one bee colony.

**LIVESTOCK** means all cattle, sheep, goats, or animals of the Bovidae family; all horses, mules, other hoof animals, or animals of the Equidae family; all pigs, swine, or animals of the Suidae family; llamas; and ostriches, rhea, and emu.

**LAWFUL FENCE** means a fence structure used to keep animals in or out of an area. The fence must be forty-eight inches high, plus or minus four inches. Fences can be made from a variety of materials such as but not limited to stone, wood, vinyl, wire, or pipe. Wire fences utilizing barbed, smooth, woven or high tension wires must be securely fastened to substantial posts set firmly in the ground as nearly equidistant as possible but not more than twenty-four feet apart. If the posts are set more than sixteen feet apart, the wires shall be supported by stays placed no more than eight feet from each other or from the posts. Lawful fences shall be strong and as well calculated as the fence described in RCW 16.60.010. For the purposes of this Article, Lawful Fence shall apply to Agricultural Enterprises over two (2) acres within the City.

**OFFICER OR OFFICIAL:** means any person designated by the city council to carry out the provisions of this article.

**OWN:** means to possess, own, keep, harbor, maintain, have an interest in or have control or custody of.

**OWNER:** means any person, firm, association, partnership, organization, department, company or corporation that owns livestock.

**POULTRY** means domestic fowl normally raised for eggs or meat, and includes chickens, turkeys, ducks and geese.

PROPERLY FENCED AREA means a barrier, railing, or other upright structure, typically of wood, wire or electric netting, enclosing an area of ground to mark a boundary, control access or prevent escape. For the purposes of this Article, Properly fenced area shall apply to Residential/Urban (RU) and Residential/Suburban (SU) single family dwellings within the City.

PROPER ENCLOSURE: means the animal/s shall be securely confined to the owner's property while grazing or foraging with a secure pen or structure designed to prevent the animal/s from escaping during fence maintenance and provide protection from the elements for the animal. The structure must comply with all applicable provisions of local Building and Zoning Codes.

STOCKING RATIO means that formula as promulgated by the NATURAL RESOURCES CONSERVATION SERVICE to determine the correct balance of cattle herd size and available forage to determine animals per acre to whit:

*Acres of pasture needed = (animals) x (average animal weight) x (.04) x (grazing days) / (average yield per acre).*

Conversely:

*Total number of animals = (total acreage) x (average yield per acre) / (.04) x (average animal weight) x (grazing days).*

Average yield is based on type of grass grown on pasture and the potential weight of bales of hale produced yearly per acre.

WARNING SIGN means a clearly visible and conspicuously displayed sign containing words and a symbol (to inform children or others incapable of reading) warning that there is a dangerous animal on the property or other cautionary message as appropriate as detailed in specific chapter within this Title.

**6-3B-3: CATTLE:**

A. It is unlawful for any person to harbor, keep, possess or maintain within the City any cow or cattle within one hundred feet (100') of a residential building on an adjacent parcel of property. (Ord. 661, 8-31-1995).

B. Minimum property size required to harbor, keep, possess or maintain within the City any cow or cattle shall be two (2) acres and then the stocking ratio shall be 1.5 cow/calf pair per acre of grazing land.

C. Should a property qualify to maintain cattle it is the owner's responsibility to ensure that permitted animals:

1. Do not create a public nuisance, as defined in OMC Title 5, Chapter 1.
2. Receive Adequate Care, as defined in this Article.
3. Are not allowed to roam at large.
4. Are securely enclosed and contained in a Lawful Fence, as defined in this Article.
5. Are available for inspection by the appropriate Animal Control Authority, Animal Control Officer or any contracted provider qualified or licensed by the State of Washington to inspect subject animals.

**6-3B-4: HOGS, SWINE, PIGS AND MEMBERS OF THE SUIDAE FAMILY:**

It is unlawful for any person to harbor, keep, possess or maintain in the City any hog or hogs, pigs, swine, or animals of the Suidae family within three hundred feet (300') of a residential building on an adjacent parcel of property.

**6-3B-5: POULTRY/RABBITS:**

A. POULTRY PERMITTED; Chickens and/or Ducks may be maintained within the City.

1. It is the owner's responsibility to ensure the permitted animals:
  - a. Do not create a public nuisance, as defined in OMC Title 5, Chapter 1.
  - b. Receive Adequate Care, as defined in this Article.
  - c. Are not allowed to roam at large.
2. Roosters, geese, turkeys, peacocks and exotic species are prohibited.
3. Chickens and/or ducks:
  - a. The maximum number of HENS permitted accessory to a single-family residential home on an urban lot shall be in combinations with any ducks, one per one thousand square feet of lot area, up to a maximum of five (5).
  - b. Chickens shall be kept in a properly fenced area while on the owner's property. Chickens shall be confined during night time hours in a securely enclosed pen or structure suitable to prevent the entry of predators and unattended young children, and designed to prevent the animal from escaping as well as provide protection from the elements for the chickens. The structure must comply with all applicable provisions of local Building Codes. Chickens shall be allowed to free range during daytime hours provided the area is solidly fenced and chickens cannot escape from owner's property and/or enter public or other private property. Daytime hours shall be considered as 7am to 7pm. Night time hours shall be those hours not considered daytime hours.
  - c. The maximum number of DUCKS (including males) permitted accessory to a single-family residential home on an urban lot shall be, in combinations with any chickens, one per one thousand square feet of lot area, up to a maximum of five (5).
  - d. Ducks shall be kept in a properly fenced area while on the owner's property, Ducks shall be confined during night time hours in a securely enclosed pen

or structure suitable to prevent the entry of predators and unattended young children and designed to prevent the animal from escaping as well as provide protection from the elements for the ducks. The structure must comply with all applicable provisions of local Building Codes. Ducks shall be allowed to free range during daytime hours provided the area is solidly fenced and chickens cannot escape from owner's property and/or enter public or other private property. Daytime hours shall be considered as 7am to 7pm. Night time hours shall be those hours not considered daytime hours.

- e. In no case shall maximum number of chickens and ducks, in combination, exceed five (5) total animals.

**B. RABBITS: PERMITTED;** Rabbits may be maintained within the City.

1. It is the owner's responsibility to ensure that permitted Rabbits meet the following criteria:

- a. Rabbits must be kept in accordance with recommendations of the Rabbit Breeders Association (ARBA) and a minimum three and one-half square feet of hutch space per rabbit.
- b. The maximum number of rabbits permitted accessory to a single-family residential home on an urban lot shall be one per one thousand square feet of lot area not to exceed five (5) total permanently residing animals,
- c. As rabbits are known for their breeding, kits must be sold or culled by the age of twelve weeks ensuring permanently residing rabbit population does not exceed five.
- d. Rabbits are NOT allowed to free range.

C. Structures (hutches, sheds, etc.) housing domestic chickens and rabbits must be located five (5) feet away from property lines and designed to prevent rodents and foul odors by incorporating portable pens, raised flooring and/or other techniques that have similar results.

D. Any Poultry and/or Rabbits kept within the City shall be registered at City Hall and pay a \$5.00 fee to cover registration costs. Registration shall be for the "hutch" independent of the number of Poultry or Rabbits legally kept within the city. This registration shall be renewable yearly.

**6-3B-6: HORSES:**

A. It is unlawful for any person to harbor, keep, possess or maintain in the City any horses within twenty five feet (25') of a boundary or residential building on an adjacent parcel of property or on any property less than one acre in size. Horses may roam throughout the property with lawful fencing.

B. Minimum property size required to harbor, keep, possess or maintain within the City any horse shall be one (1) acre and then maximum number of horse allowed shall be 1 horse (or mare/foal pair ) per acre of usable grazing land.

C. Should a property qualify to maintain horses it is the owner's responsibility to ensure that qualified horses:

1. Do not create a public nuisance, as defined in OMC Title 5, Chapter 1.
2. Receive Adequate Care, as defined in this Article.
3. Are not allowed to roam at large.
4. Are securely enclosed and contained in a Lawful Fence, as defined in this Article.
5. Are kept utilizing Best Management Practices, as defined in this Article, to help to keep pasture grasses in better condition, prevent soil erosion and compaction, reduce mud, dust and keep the air cooler in hot weather
6. Are available to inspection by the appropriate Animal Control Authority, Animal Control Officer or any contracted provider qualified or licensed by the State of Washington to inspect subject animals.

**6-3B-7: BEES:** Honey, Mason or similar bees used for honey or pollination purposes.

A. HONEYBEES

1. Parcel and Apiary Size Requirements: It shall be unlawful to keep more than the following number of hives on any parcel within the City, based upon the size of the parcel on which the hive is situated:

TABLE 6-3B-7.A.1

Parcel Size	Number of Hives Allowed
0 to 5,999 square feet	0 hives
6,000 to 10,000 square	2 hives
10,001 to 20,000 square feet	4 hives
20,001 to 43,560 square feet (.46 ac to 1 ac)	10 hives
35,001 to 65,340 square feet (1 ac to 1.5 ac)	20 hives
1.5 to 5.0 acres	25 hives in urban areas
5.01 to 10.0 acres	40 hives in urban areas
10.01 acres and greater	60 hives as a rural or mountain honey foraging site, or 60 or more hives as a 30-day collection site for truck access in spring and fall

2. Hive Placement Requirements:

- a. Hives shall be at least twenty-five (25) feet from a property line, with the hive(s) entrance(s) facing away from or parallel to the nearest property line ensuring flight path of bees does not create a nuisance.
- b. Hives may be less than twenty-five (25) feet from a property line if placed behind a six (6) foot high fence, which shall extend at least twenty-five (25) feet beyond the hive(s) in both directions. The fence shall direct bee flight into the air at least six (6) feet before the bees cross the property line. The fence or obstruction may occur on the adjoining property; provided, that bee flight is not directed in the vicinity of recreational decks or entrances to housing or buildings on adjoining properties. In lieu of a fence, the hive(s) may be placed at least eight (8) feet above adjacent ground level, and comply with the remaining placement requirements.
- c. A hive(s) adjacent to public roads shall comply with placement requirements in such a manner as to direct bee flight at least twenty (20) feet into the air over the road surface. In lieu of this requirement, a hive(s)

shall be placed at least one hundred (100) feet from the road right(s)-of-way, with the entrance(s) parallel thereto.

3. Hive, Apiary Management Requirements:

- a. Hive(s) shall be registered with the Department of Agriculture and comply with Chapter 15.60 RCW and rules adopted thereunder; and
- b. All hives shall consist of moveable frames and combs, unless exempted by the Department of Agriculture as an educational exhibit; and
- c. Hives shall be managed for swarm prevention and gentleness; and
- d. Hives shall be requeened at least bi-annually to prevent swarming. Annual requeening is strongly recommended; and
- e. Hives shall be requeened if bee behavior is likely to cause a nuisance; and
- f. A consistent source of water shall be provided at the apiary unless it occurs naturally within three hundred (300) yards. The water may be “sweetened” with mineral salt or chlorine to enhance its attractiveness. This requirement is intended to discourage bee visitation at swimming pools, hose bibs, animal watering sources, bird baths or where people congregate; and
- g. Apiaries shall be managed and kept in a clean and orderly manner and appearance to prevent a nuisance; and
- h. **WARNING SIGN**; an apiary(s) shall be identified by placing a sign so it is visible to passersby. Sign lettering shall be a minimum of two (2) inches in height and shall include the name, state issued identification number, and telephone number of the owner. Signs shall be placed in a manner to make them conspicuous to anyone approaching the apiary. In lieu of signing, a hive may be identified by displaying the identification number and telephone number of the owner in at least two (2) inch characters on the sides and tops of some colonies in each apiary. The characters shall be in a color which contrasts with the color of the hive(s), and be conspicuous to anyone approaching the apiary. An apiary(s) located at the owner’s residence is exempt from marking requirements.

B. MASON BEES or similar pollinating varieties

1. Available information states, unlike garden-variety honeybees, mason bees are non-social creatures that nest in holes rather than in a hive with a queen. Orchard bees work alone, but like to nest in groups when possible — there is no cooperation concerning the nest’s construction or the rearing of the brood, and therefore, no aggression issues. Orchard bees gain their name from the way that the females protect their eggs: They’ll form an egg chamber in the deepest part of their hole and seal it with mud, repeating the process until the hole is full of eggs. Known for

being solitary hard workers, orchard bees only live for about 8-10 weeks in the spring, typically from mid-March until the end of May or early June (the fittest season for pollinating fruit trees and berries!). The bees will then hibernate for about 10 months and later emerge with great energy for more pollination duty.

- a. Nesting boxes shall be provided, preferably on south-facing garage, house, or garden shed walls with food being available within about 300 feet of the nest. A “mud-pie” or other small area of open ground should be provided for female egg laying with the soil moist, but not soupy and not directly under the nest (young emerging bees could fall in).
- b. Area housing bee varieties other than honey bees must be a minimum of ten feet from adjacent properties and limited in size appropriate for pollination of the owner’s lot.

C. NUISANCE: Bees shall be considered a nuisance when any of the following occurs:

1. Colonies of bees are defensive or exhibit objectionable behavior, or interfere with the normal use of property, or the enjoyment of persons, animals or property adjacent to an apiary(s); or
2. Colonies of bees swarm; or
3. Hives of bees do not conform to this Code; or
4. The hive(s) becomes deceased, as defined by the Department of Agriculture; or
5. The hive(s) becomes abandoned.

D. VIOLATIONS: Reported or visible violations may be corrected by order of the City within which they occur according to established procedures as described in this Article, or by the Department of Agriculture. The City may request the services of the Department of Agriculture to investigate violations or to determine and suggest appropriate corrective measures. Penalties may be levied by the City according to local ordinance or procedures, or by the Department of Agriculture.

**6-3B-8: PUBLIC RIGHTS OF WAY AND PRIVATE PROPERTY:**

A. Rights Of Way: It is unlawful for any person to cause or permit any livestock poultry or rabbit to graze or stray upon any portion of the right of way of any public street, or public park within the corporate limits of the City.

1. Any livestock, poultry or rabbits found at large on public property may be seized and impounded.
2. Owner or person in control of at large livestock, poultry or rabbits shall pay all costs associated with the care and keeping of said animals during impound and in event of disposal shall be responsible for those associated costs.

B. Private Property: It is unlawful for any person to cause or permit any livestock, poultry or rabbit to graze or stray on any private property in the City unless the owner of such livestock, poultry or rabbit has permission so to do from the person, or persons, in charge of all the premises frequented by such livestock, poultry or rabbit when so permitted to graze or stray.

C. Chapter 16.04 RCW (Trespassing Animals), as existing on the date of enactment of the ordinance codified in this chapter or as hereafter amended by the state of Washington or applicable agencies, is hereby adopted by reference as if fully set forth herein.

D. Should any livestock, poultry or rabbit be found on others private property without permission, whether the livestock, poultry or rabbit is present with or without the animals owner's knowledge, the owner of the trespassed property may:

1. Contact the trespassing animals owner and demand removal at the trespassing animals owners expense; or
2. Arrange for removal by a contracted third party at the trespassing animals owners expense; or
3. Seize and hold trespassing animal as described in RCW 16.04 thereby making use of remedies as provided in RCW 16.04.

**6-3B-9: PROVISIONS NOT APPLICABLE TO CERTAIN FARMS:**

A. This Article shall not apply to any existing farm or equine stable within or partly within the limits of the City, a farm being defined for the purposes of this Article as an agricultural enterprise of not less than two (2) acres provided that:

1. Best Management Practices, as defined in this Article, are in place at the time of enactment of this ordinance, and any subsequent additions or amendments by the City at future dates are complied with. These BMPs should include but not be limited to:
  - a. Practices promoting pasture rotation, manure management, stream and pond buffering, planting trees, etc. thereby helping land and animals to remain healthy.
  - b. Practices helping to keep pasture grasses in better condition, prevent accumulation of mud, prevent soil erosion and compaction, reduce dust and keep the air cooler in hot weather.
  - c. Practices supporting and maintaining water quality and quantity, prevention of soil erosion related to storm water runoff and protections of wetlands.
2. Lawful Fences, as defined in this Article, are constructed and maintained so as to keep livestock confined to the properties boundaries.

3. Deficiencies found concerning BMPs at the time of enactment of this title will be given 24 months to cure and bring into compliance.
4. Adequate Care is provided, as defined in this Article.
5. Stocking Ratios for cattle, as defined in this Article, are maintained.

**6-3B-10: VIOLATION; PENALTY:**

A. Any person violating the provisions of 6-3B-3A, 6-3B-4, and 6-3B-6A shall be guilty of a misdemeanor and, upon conviction thereof, subject to penalty as provided in Section 1-4-1 of this Code.

B. Any person violating the provisions of 6-3B-3B, 6-3B-3C, 6-3B-5, 6-3B-6B, 6-3B-6C, 6-3B-7, and 6-3B-9, shall be guilty of a civil infraction with penalties as follows:

1. First offense within a one year period: Class 3 civil infraction. (\$50.00)
2. Second offense within a one year period: Class 2 civil infraction. (\$125.00)
3. Third offense within a one year period: Class 1 civil infraction. (\$250.00)
4. Fourth offense within a one year period: Misdemeanor. (\$\_\_\_\_\_)

**6-3B-11: PROVISIONS NOT EXCLUSIVE:**

The provisions of this chapter shall be accumulative and not exclusive, and shall not affect any other claim, cause of action or remedy, nor, unless specifically provided, shall this chapter be deemed to repeal, amend, or modify any law, ordinance, or regulation relating to livestock and other animals, but shall be deemed additional to existing legislation and common law on noise.

**Section 2. Severability.** Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**Section 3. Codification.** The City Council authorizes the City Clerk to correct any non-substantive errors in this Ordinance, codify the replacement OMC Title 6, Chapter 3, Article B, and publish the code.

**Section 4. Effective Date.** This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force September 1, 2016.

**FIRST READING ON AUGUST 10, 2016.**

**SECOND READING AND ADOPTION BY THE CITY COUNCIL AT A SPECIAL  
MEETING THEREOF ON THE 17<sup>TH</sup> DAY OF AUGUST, 2016.**

CITY OF ORTING

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Joachim Pestinger, Mayor

ATTEST/AUTHENTICATED:

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Jane Montgomery, City Clerk, CMC

Approved as to form:

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Charlotte A. Archer

Kenyon Disend PLLC

City Attorney

Filed with the City Clerk: August 4, 2016

Passed by the City Council: August 17, 2016

Ordinance No.2016-989

Date of Publication: August 19, 2016

Effective Date: September 1, 2016

**CITY OF ORTING  
WASHINGTON  
ORDINANCE NO. 2016-990**

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**AN ORDINANCE OF THE CITY OF ORTING,  
WASHINGTON, AMENDING ORTING MUNICIPAL CODE  
SECTION 5-8-5 (PUBLIC NUISANCES AND DISTURBANCE  
NOISES); AMENDING OMC 5-8-8 (ENFORCEMENT;  
COMPLAINTS); AMENDING OMC SECTION 5-8-10  
(VIOLATION); PROVIDING FOR SEVERABILITY; AND  
ESTABLISHING AN EFFECTIVE DATE**

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**WHEREAS**, the City of Orting is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington; and

**WHEREAS**, Orting Municipal Code (OMC) Title 5, Chapter 5, contains the City's regulations for noise control and public nuisances and disturbance noises; and

**WHEREAS**, the Pierce County Auditor's Office and Pierce County Sheriff's Office together, hereinafter referred to as the County, is in the business of providing services related to the care and control of animals for Pierce County residents; and

**WHEREAS**, the City of Orting is in need of animal control and pet licensing services and desires to contract with Pierce County for its animal control and licensing services for dogs, cats and domestic animals; and

**WHEREAS**, on July 7, 2016, the City Council authorized the Mayor and City Manager to execute an interlocal agreement with the County to provide animal control and pet licensing services to the City; and

**WHEREAS**, as a condition of providing animal control and pet licensing services to the City, the interlocal agreement requires the City to adopt the County's regulations for public nuisance and disturbance noises, as they relate to the regulation of animal noises;

**WHEREAS**, the City Council has determined that the proposed regulations are in accord with the Comprehensive Plan, will not adversely affect the public health, safety, or general welfare, and are in the best interest of the citizens of the City; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORTING,  
WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1. OMC Title 5, Chapter 8, Section 5, Subpart B.1., Amended.**

Orting Municipal Code Title 5, Public Health and Safety, Chapter 8, Noise Control, Section 5, "Public Nuisances and Disturbance Noises," subpart B.1., is hereby amended to read as follows:

## OMC 5-8-5: PUBLIC NUISANCES AND DISTURBANCE NOISES

A. Public Nuisance Noises: It is unlawful for any person to cause or allow to be emitted a noise which has been determined to be a "public nuisance noise" as defined herein.

### B. Public Disturbance Noise:

It is unlawful for any person to cause or any person in possession of property to allow to originate from the property, sound that is a public disturbance. No sound source specifically exempted from this chapter shall be a public nuisance noise or public disturbance noise insofar as the particular source is exempted. The following source of sound shall be public disturbance noises:

1. Frequent, repetitive, or continuous noise made by any animal which unreasonably disturbs or interferes with the peace, comfort, and repose of property owners or possessors, except that such sounds made by animal shelters, or commercial kennels, veterinary hospitals, pet shops, or pet kennels licensed under and in compliance with applicable regulations shall be exempt from this subsection. Notwithstanding any other provision of this chapter, if the owner or other person having custody of the animal cannot, with reasonable inquiry, be located by the investigating officer, or if the animal is a repeat violator of this subsection, the animal shall be impounded by the animal control officer or his designee, subject to redemption in the manner provided by sections ~~6-3A-78~~ and ~~6-3A-9~~ of this code, ~~animal services policy~~;

### **Section 2. OMC Title 5, Chapter 8, Section 8, Amended.**

Orting Municipal Code Title 5, Public Health and Safety, Chapter 8, Noise Control, Section 8, "Enforcement; Complaints," is hereby amended to read as follows:

#### OMC 5-8-8: ENFORCEMENT; COMPLAINTS:

A. Enforcement: The City Police Department, the Enforcement Officer, and the County Sheriff's Office shall enforce the provisions of this Chapter.

~~A.B.~~ Complaint Only Basis: Only after a complaint has been received from an identified person who owns, rents, or leases property that is affected by a noise source may a civil infraction be issued; provided, that the section of this chapter relating to motor vehicles and noise emanating therefrom shall be subject to enforcement proceedings regardless of whether a complaint has been received; provided further, that with the exception of motor vehicle noises, noise created by industrial areas are to be enforced by the state of Washington.

~~B.C.~~ Separate Offenses: For enforcement purposes, each day defined as a twenty four (24) hour period beginning at one minute past twelve o'clock (12:01) A.M. in which a violation of this chapter occurs shall constitute a separate violation.

### **Section 3. OMC Title 5, Chapter 8, Section 10, Amended.**

Orting Municipal Code Title 5, Public Health and Safety, Chapter 8, Noise Control, Section 10, "Violation," is hereby amended to read as follows:

OMC 5-8-10: VIOLATION:

A. Violation:

1. Any person violating any motor vehicle performance standard of this Chapter, or who shall create, keep, maintain, or allow to occur any noise related to motor vehicle performance standards, as defined herein, shall be guilty of a misdemeanor.

2. Any person violating any of the provisions of this Chapter other than motor vehicle performance standards, or who shall create, keep, maintain, or allow to occur any public disturbance noise or public nuisance noise as defined herein, shall be subject to a civil infraction citation as provided for in Chapter 1-4 OMC.

a. A first violation shall be a Class 3 civil infraction.

b. A second violation shall be a Class 2 civil infraction.

c. Any subsequent violations shall be Class 1 civil infractions.

~~Any first and second offense violation of the provisions of this chapter within a thirty (30) day period shall be punishable as a civil infraction with a maximum penalty of one hundred dollars (\$100.00) for each occurrence. Any third offense violation of the provisions of this chapter within a thirty (30) day period shall be punishable as described in subsection C, "Violation; Misdemeanor", of this section.~~

B. Evidence In Proceedings: In any proceeding under this chapter, unless specifically required by regulations adopted herein by reference, evidence of sound level through the use of sound level meter readings shall not be necessary to establish the commission of the violation.

~~C. Violation; Misdemeanor: Any third offense violation of the provisions of this chapter within a thirty (30) day period by a person responsible for compliance with any of the provisions of this chapter shall constitute a misdemeanor. Any violation, act, or omission by a person responsible for compliance with any civil regulatory order issued pursuant to this chapter, or any provision or condition of an approval issued or granted pursuant to this chapter, shall constitute a misdemeanor.~~

D. Every Act A Separate Violation: Every act or omission which constitutes an offense or violation under this chapter shall constitute a separate violation or offense for each and every day during any portion of which the act or omission constituting the offense or violation is committed, continued, or permitted.

**Section 4. Severability.** Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**Section 5. Codification of Amendments.** The City Council authorizes the City Clerk to correct any non-substantive errors in herein, codify the amendments, and publish the amended code.

**Section 4. Effective Date.** This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force September 1, 2016.

**FIRST READING ON AUGUST 10, 2016.**

**SECOND READING AND ADOPTION BY THE CITY COUNCIL AT A SPECIAL MEETING THEREOF ON THE 17<sup>TH</sup> DAY OF AUGUST, 2016.**

CITY OF ORTING

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Joachim Pestinger, Mayor

ATTEST/AUTHENTICATED:

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Jane Montgomery, City Clerk

Approved as to form:

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Charlotte A. Archer  
Kenyon Disend PLLC  
City Attorney

Filed with the City Clerk: August 4, 2016  
Passed by the City Council: August 17, 2016  
Ordinance No. 2016-990  
Date of Publication: August 19, 2016  
Effective Date: September 1, 2016

## COUNCIL GOALS 2015

**Vision:** Orting is a safe, thriving and culturally diverse town nestled in the foothills of Mount Rainier; a charming place to live, work, play and do business.

**Values:** We strive for and value: Rich heritage of agriculture and community; Scenic trails, parks, and outdoor recreation; Flowing rivers, mountain views and stewardship of our natural resources; Cooperation with schools, the Washington State Soldiers' Home and civic organizations; Unique, accessible and expanding business community; Volunteers and loyal community members; Responsive representative government

ORTING COUNCIL GOALS	STRATEGIES	TACTICS	TIME FRAME	WHO IS RESPONSIBLE	MEASURE OF SUCCESS
1. Retain and Expand Orting's business community	Maintain flexible and customer friendly permitting processes	<ol style="list-style-type: none"> <li>1. Develop a customer bill of rights</li> <li>2. Develop on-line permitting and payments</li> <li>3. A satisfaction survey will be developed for permit customers</li> <li>4. List frequently used permits and their cost on the web site.</li> </ol>	Ongoing	City Administrator, Building Official, Public Works Director, CGA Committee	<ol style="list-style-type: none"> <li>1. Chamber of Commerce will report that the city's permitting process is fast, accessible, and fair – not an obstacle.</li> <li>2. Permit customers will have an opportunity to complete a satisfaction survey. The survey will show satisfaction with the permit process.</li> <li>3. CGA will report progress and plan for online permitting and payments</li> </ol>
	Make City financially attractive to companies that provide family wage jobs.	<ol style="list-style-type: none"> <li>1. Ensure continued zoning of the MUTCN for office space and light industrial.</li> <li>2. Work with the Chamber of Commerce to establish an annual business luncheon.</li> <li>3. Put out a satisfaction survey of businesses.</li> </ol>	2015	Planning Commission; City Council; City Administrator; CGA Committee	<ol style="list-style-type: none"> <li>1. The Chamber of Commerce Board will report that Orting is an attractive City to do business.</li> <li>2. The satisfaction survey will report a positive image of Orting as a city that is attractive to do business.</li> </ol>
	<ol style="list-style-type: none"> <li>1. Expand agriculture and related businesses</li> <li>2. Collaborate with Pierce County Farming initiatives</li> <li>3. Develop City Ag branding for the valley</li> <li>4. Promote Agri-tourism</li> <li>5. Support the Orting Valley Farmers Market</li> </ol>	<ol style="list-style-type: none"> <li>1. Continue membership on the Pierce County Farm Board</li> <li>2. Attend Ag events in Pierce County</li> <li>3. Develop Ag events in Orting</li> <li>4. Get Orting on County and State agricultural maps, loop</li> <li>5. Encourage development of a Commercial Kitchen and food processing.</li> <li>7. The City Council will provide support funding for the growth of the Orting Valley Farmers Market.</li> </ol>	2015	City Administrator, CGA Committee	<ol style="list-style-type: none"> <li>1. Cascade Harvest Coalition and the PCC Farmland Trust will report that the City of Orting is supportive of agriculture.</li> <li>2. Pierce County will hold a major regional Ag event in Orting</li> <li>3. The Orting Valley will be on state and county Agriculture tour maps.</li> <li>4. The City will collaborate and partner with local farmers to grow ag events in the valley.</li> </ol>
	Promote local shopping	<ol style="list-style-type: none"> <li>1. Reader Board will have a "shop Orting" type message Quarterly.</li> <li>2. City will alert local businesses and the Chamber of Commerce when events are going to occur.</li> <li>3. City will invite Chamber to attend the CGA Committee meeting.</li> </ol>	Ongoing	City Administrator; Parks & Rec Director Chamber of Commerce	<ol style="list-style-type: none"> <li>1. Reader Board will have a "shop Orting" type message Quarterly.</li> <li>2. City Businesses will be alerted to upcoming events</li> <li>3. Chamber will attend CGA Committee meetings.</li> </ol>
	Promote Orting as a destination city.	<ol style="list-style-type: none"> <li>1. Work with the State to include Orting in the Mt Rainier Loops</li> <li>2. Use Hotel/Motel Tax to develop regional signage directing traffic to Orting.</li> <li>3. Develop destination brand</li> <li>4. Develop SR162 signage advertising the "Orting Valley".</li> <li>5. Produce a video to promote the city and businesses.</li> </ol>	2015	Hotel Motel Tax Committee; City Administrator	Highway signage on SR 167 and SR512 will direct traffic to Orting. Have signage on SR162 declaring "you are entering the Orting Valley".
2. Maintain small town feel and look.	Continue to improve parks, and spurs from the foothills trail.	<ol style="list-style-type: none"> <li>1. There will be a plan in place that describes the current state of each park, what is needed to maintain the parks, and what is needed to improve each park. This list of maintenance and improvements will be prioritized for funding opportunities.</li> <li>2. Local volunteer groups will "adopt" city parks to provide routine litter control and light maintenance.</li> </ol>	2015	Parks Commission plan with City Council approval.	<ol style="list-style-type: none"> <li>1. The City will complete the identified maintenance and improvements according to the prioritized list.</li> <li>2. All parks will be adopted by local volunteer groups.</li> <li>3. The Parks Commission will provide an annual report in November that specifies how parks have been improved.</li> </ol>
	Support the Architectural Design Code to maintain a turn of the century look to the commercial districts.	<ol style="list-style-type: none"> <li>1. The Planning Commission will continue to uphold the ADR through reviews and approval of architecture and signage that is has the turn of the century western/Victorian theme.</li> </ol>	Ongoing	City Council, Planning Commission	All commercial development will be ADR compliant
3. Improve transportation circulation in and around Orting.	Attain state funding for expansion of, and traffic improvements to SR162 Reduce Commute time	<ol style="list-style-type: none"> <li>1. Lobby State legislators</li> <li>2. Collaborate with Tehaleh and Southhill Developers</li> <li>3. Seek state funding for a left turn lane at the High Cedars Development</li> </ol>	2015	CGA Committee, Streets Committee	SR 162 expansion will be part of the State's new Transportation plan/budget.
	Maintain City streets	<ol style="list-style-type: none"> <li>1. Maintain Transportation Benefit District Board</li> <li>2. Maintain \$20 Tab Fee</li> <li>3. Chip Seal 2 miles of streets per year</li> </ol>	2015	Transportation Benefit District Board; City Council, Transportation Committee	City will chipseal 2 miles of city streets
	Develop funding for the Whitehawk Southwest Connector	Council will review the purpose and need for the SW Connector	Ongoing	City Administrator, Transportation Committee, Engineer	Whitehawk connector will be submitted to the PCRC for funding.
4. Increase community involvement in City government. Increase communication.	Establish Info Centers with Brochures	City will have booth at City wide events. The booth will be staffed by the Mayor/City Administrator, Councilmembers, and other city staff.	2015	City Administrator, Council	City will have a staffed booth at City wide events.
	Hold annual town hall meeting in conjunction with state legislator visits	The City will coordinate with state legislators to ensure town hall meeting	2015	CGA and City Administrator	There will be a town hall meeting with state legislators

Communication continued	Meet & Greet w/ Fire and Police Departments In conjunction with city wide events.		2015	Mayor, City Administrator, Council	Town Hall meeting will be held in 2014
	Improve Communication with citizens through the use of social media	1. Develop a communication plan for electronic communications 2. Consider better use of "Orting News" web newspaper 3. Pilot more participative communication methods		Land Use and Technology, CGA Committees (other council committees as necessary)	1. City will have social media communication with citizens 2. City will develop reporting tools available to the public 3. City will activate Facebook page 4. City will activate Twitter communication.
	Develop Professional Public Information Officer Communications with television and newspaper media.	1. The City will send appropriate staff to PIO training	2015	Mayor, City Administrator	1. City Mayor and/or staff persons will be trained in professional communication skills for the media.
5. Promote Public Safety	1. Determine Police level of Service 2. City will provide education opportunities on public safety & crime prevention. 3. PS committee will seek opportunities for independent review and certification of Police Department 4. PS committee will develop supplementary or alternative funding strategies to meet funding needs of the police department and other public safety needs.	1. PS will work with staff to identify funding gaps between council adopted strategies and realities of the council budget. 2. PS will work with staff to identify alternative funding strategies towards a budgetary goal. 3. PS Committee will develop policy document/resolution on level of service, to include philosophy, goals of council, goals of staff/pd, and staffing level goals. 4. PS committee will assess regularly, opportunities to provide education opportunities to community. PS committee will work with appropriate staff and advocate within the current budget to promote public safety and crime prevention opportunities. 5. PS committee will report to council on learned lessons from education opportunities 6. PS Committee will work with staff to assess audit vs certification/accreditation. 7. PS committee will have budget goals ready for 2015 budget retreat that reflect the adopted strategies of the council.	2015	Public Safety Committee, City Administrator, Police Chief	1. Resolution concerning level of service goals and strategies adopted by council. 2. Council will adopt funding plan for audit or accreditation/certification in 2016. 3. City will provide for at least (2) separate public education opportunities in 2015, concerning public safety and/or crime prevention. 4. PS committee will have plan for 2016 public safety and crime-prevention education opportunities prepared by EOY 2015. 5. PS committee will have budget goals ready for 2015 budget retreat that reflect the adopted strategies of the council.
	The City will have an up-to-date Hazard Mitigation plan	City Administrator will attend all meetings with Pierce County DEM to complete the Hazard Mitigation Plan update.	2015	City Administrator, Police Chief, Building Official	Update of Hazard Mitigation Plan will be completed
	Collaborate with Fire District 18	City will work with FD 18 to create a unified Comprehensive Emergency Management Plan	2015-2016	Mayor, Police Chief, City Administrator	City and FD 18 will have a combined CEMP
	Support and promote the Emergency Pedestrian Evacuation Bridge System EPEBS.	City Council members will attend EPEBS meetings to assist in grant funding	2015	City Council	The EPEBS project will have 100% engineering plans completed.
6. Maintain Quality Utilities	1. Resource conservation 2. Public Education 3. Environmental compliance 4. Asset management 5. Financial security 6. New Public Works Facility	1. The City budget will have sufficient funding to provide for quality utilities. 2. Cost of service, rate reviewed 3. Public Education on line 4. NPDES current and future compliance requirements reviewed with plan to meet all requirements 5. Adopt and implement an asset management program 6. Determine solids handling technology	2015	City Administrator Public Works Director Utilities Committee Council - budget	1. Reduced down rates 2. Citizen complaints reduced 3. Reduced I&I. 4. Process Optimization progress. 5. Improved storm water drainage on Harman Way and Calistoga St W. 6. Easements will be completed for Orville water line. (75% complete) 7. Capital Assets data input into software completed in time for 2016 budget work. 8. Solids handling technology chosen.
7 Cooperation with other jurisdictions	Collaborate with Federal Government elected representatives	City Representatives will meet with regional state representative The City will have an updated legislative priority document	2015	City Administrator, CGA Committee	City Representatives will meet with regional state representative at least annually and provide the representative with the city's legislative priorities.
	Collaborate with State Government elected representatives	Town Hall meetings with state legislators	Ongoing	City Administrator, CGA Committee	The City will have at least one Town hall meeting with both legislators and state senator present.
	Collaborate with the Orting School District	City representatives will attend school board meetings	Ongoing	Mayor, City Administrator, Council, Police Chief	City Representatives will attend at least 9 School Board Meetings
	Collaborate with Pierce County Officials	1. Meet at least annually with the Pierce County Executive 2. City will work with County to evaluate potential City UGA in urban unincorporated Pierce County – to the north of the City	Annually Ongoing	City Administrator and Mayor City Administrator, CGA Committee	1. Meeting will occur at least annually 2. City officials will meet with County officials to discuss opportunities for City a UGA to the north of City limits
8. Maintain a responsible financial stewardship	The Council will develop and approve a balanced budget	1. Council and Mayoral decisions to increase expenses in a fund will be accompanied by increases in revenues and/or decreases in expenses by the same amount. 2. Council will determine fund balance minimums 3. The City will review its need for an engineer and planner annually to determine if expenses can be reduced.	2015	City Council, Mayor, City Administrator	1. Council approved fund balances will not be reduced.