

CITY OF DILLINGHAM, ALASKA

ORDINANCE NO. 2018-07

**AN ORDINANCE OF THE DILLINGHAM CITY COUNCIL AMENDING TITLE 7, ANIMALS, BY ADDING CLASSIFICATION AND REGULATION TO SECTION 7.40 CARE AND CONTROL OF ANIMALS**

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WHEREAS, the City of Dillingham (City), though established practice, classifies aggressive animal behaviors for public safety purposes; and

WHEREAS, Title 7 – Animals of the code should be amended to reflect the City’s aggressive animal classification practices, and

WHEREAS, re-writing Title 7 to provide clearer instruction to the community and enforcement officers is desirable;

BE IT ENACTED BY THE DILLINGHAM CITY COUNCIL:

**Section 1. Classification.** This is a code ordinance.

**Section 2. Repeal and Re-Enactment of Title 7.** That Dillingham Municipal Code Title 7 Animals is hereby repealed in its entirety, and replaced with a new Title 7 Animals, to read as follows:

**Title 7  
ANIMALS**

**Chapters:**

- 7.10 Administration of Animal Control**
- 7.20 Registration and Ownership of Animals**
- 7.30 Impound, Protective Custody, and Quarantine**
- 7.40 Care and Control of Animals**

**Chapter 7.10  
Administration of Animal Control**

**Sections:**

- 7.10.010 Purpose.
- 7.10.020 Definitions.
- 7.10.030 Animal control center.
- 7.10.040 Animal control officers and agents.
- 7.10.050 Fees.

**7.10.010 Purpose.**

The purpose of this title is to promote public health and safety and to encourage responsible pet ownership and the humane care of animals.

## **7.10.020 Definitions.**

As used in this title:

“Abandoned animal” means an animal:

1. surrendered under DMC 7.20.030,
2. that has not been reclaimed from quarantine, impounded, or protective custody for a period of ten days or more after the animal could be lawfully released to its keeper,
3. in protective custody for ten days or more that cannot be lawfully released to its keeper, or
4. that has been impounded 3 or more times in a 60-day period.

“Adoption eligible” means an abandoned animal that has been evaluated for health and temperament by the animal control officer or the police chief and determined to be suitable for adoption. An animal that has been classified for level 3 or level 4 aggressive behavior is not adoption eligible.

“Animal” means all members of the phylum chordata.

“Animal control agent” is the person acting on or in behalf of the animal control officer enforcing the provisions of this title and shall include all city police officers.

“Animal control center” is any area, temporary or permanent, designated by the animal control officer for the holding of animals. A center can be publicly or privately owned and operated.

“Animal control officer” is the person designated by the city manager as having the responsibility of enforcing the provisions of this title.

“At large” means not under restraint or not controlled.

“Bite” means the animal, by using its teeth, breaks the skin of a human being or animal.

“Cat” means felis catus.

“Chronic animal noise” means repeated vocalization by an animal or animals for more than thirty consecutive minutes. Daytime noise generated by a licensed kennel in its reasonable and customary manner of operation only during feeding and loading/unloading times is excused to a maximum of thirty consecutive minutes.

“Control” in relation to an animal, means to simultaneously monitor, direct, and restrict an animal’s movements and activities so as to prevent violations of this title. Specific types of control are defined as follows:

1. “Control by leash” means to control an animal by a securely attached leash, chain, or an item physically capable of restraining the animal. The item must be in the secure possession of a person physically and mentally capable of monitoring, directing, and restricting the animal’s movements and activities.
2. “Control by harness” means to control an animal by a harness or other similar device attached directly or indirectly to a person or object.
3. “Control by command” means to control an animal by visual and/or audible commands to which the animal responds promptly and accurately. A person must be present, monitor the animal, and be physically and mentally capable of directing animal movements and activities by visual and/or audible commands.

4. "Control by collar" means to control an animal by electronic collar with or without handheld remote and having all parts of the device working and visible at time of training or activation.

5. "Control by barrier" means to control an animal on property under the possession of an animal's keeper by means of a physical barrier such as a fence or wall that is sufficient to prevent the animal from passing beyond the barrier.

"Dog" means *canis familiaris*.

"Domestic animal" means dogs.

"Feral" means not domesticated or cultivated; or having escaped from domestication and become wild.

"Humane care" means providing the animal with, though not limited to, the following:

1. sufficient wholesome and nutritious food at least once daily which will keep the animal in healthy physical condition;
2. sufficient daily quantities of fresh water which meet the hydration requirements for the animal;
3. adequate shelter which provides adequate air and ventilation and which prevents the animal from being exposed to inclement or adverse weather conditions, overheating from sunlight, unsanitary conditions and dirty, wet and uncomfortable conditions which may endanger the health or welfare of the animal;
4. veterinary care when needed to treat the animal for sickness or disease or to prevent suffering of the animal;
5. sufficient exercise as needed by the animal; and
6. protection from acts of animal cruelty.

"Impound" or "impoundment" means city custody and confinement of an animal in a veterinarian's office or hospital, in the animal control center, or at other locations approved by the city manager or animal control officer for violation of this title. Impound does not include quarantine or protective custody.

"Keeper" includes any person, group of persons, partnership, firm, trust or corporation harboring, keeping, causing or permitting an animal to be harbored or kept, having an animal in possession or custody, permitting an animal to remain on or about premises or having legal title to an animal. Keeper includes any adult member of a family or group or persons sharing a residential unit where another member of the family or group has an interest in, has control, custody or possession of an animal which is kept in or on the premises of the shared residential unit. A licensed veterinarian treating an animal or any person in custody of an animal for the purpose of protective custody or impound under this title is not a keeper of the animal.

"Protective custody" means an animal seized and placed in the custody of a veterinarian licensed under AS 08.98, the city, or a responsible public or private custodian who has previously volunteered to accept animals seized under this title and to provide shelter, care, and necessary medical attention based on a determination that such custody is reasonably necessary for the humane care of the animal. Protective custody is intended to provide humane care to an animal, not as a sanction for violation of this title.

"Provoked" means to incite or stimulate to action; to anger, enrage, exasperate, or vex.

“Quarantine” is the strict confinement upon the private premises of the animal’s keeper, in a veterinarian's office or hospital, in the animal control center, or at other locations approved by the city manager, under restraint by leash, chain, closed cage, or paddock.

“Restraint” or “restrain” means to confine or control an animal.

“Sterilized” or “sterile” means neutered, spayed, or rendered incapable of reproduction.

“Stray” is an animal without a known keeper or without a keeper who can be determined with reasonable effort.

“Unprovoked” means not caused by anything done or said.

“Unweaned animal” means an animal younger than six weeks old, separated from the care of its mother, and/or an animal still dependent on its mother’s milk.

“Wolf” means canis lupis.

“Wolf dog” means the offspring of a wolf or wolf hybrid. For the purposes of this title, wolf dogs and wolf hybrids shall be synonymous.

“Wolf hybrid” is a hybrid the species canis lupis and canis familiaris.

**7.10.030 Animal control center.**

- A. The city shall maintain an animal control center under the direction of the city manager or the city manager’s designee.
- B. The animal control center may keep animals which city assumes custody of under this title.
- C. The city may contract with a private person or entity to perform the functions of the animal control center.

**7.10.040 Animal control officers and agents.**

A person designated by the city manager as animal control officer, under the supervision of the police chief, shall be responsible for domestic animal registration, rabies vaccinations, investigation of animal bites, animal-related complaints, maintaining the animal control program, health and safety clinics, and the animal control center, enforcement and issuance of citations, and the destruction and disposal of vicious or unwanted animals. Police officers also have the authority to enforce this title.

**7.10.050 Fees.**

Registration	
Valid for the expiration of the rabies vaccination. Fees reflect per year and are available for advanced purchase up to three years.	
a. Unsterilized animal*	\$10.00
b. Sterilized animal*	\$5.00
c. Duplicate	\$1.00
Adoption	\$35.00
Plus registration fee above	
Impound per day, commencing 24 hours after the time of impoundment	\$25.00

Pick-up	
a. Unregistered animal*	\$50.00
b. Registered animal*	\$35.00
Plus impound fee per day	
Kennel permit new, extended, or re-issued (three-year period)	\$25.00
Surrender of animal	\$25.00
Euthanize	\$50.00

**Chapter 7.20**  
**Registration and Ownership of Animals**

Sections:

- 7.20.010 Domestic Animal Registration.
- 7.20.020 Kennel Permit.
- 7.20.030 Surrender of unwanted animals.
- 7.20.040 Sale and transfer of animals.
- 7.20.050 Wolf hybrids prohibited.

**7.20.010. Domestic animal registration.**

A. Within thirty days of entry into the city, all domestic animals twelve weeks of age or older are required to be registered by individual registration or as part of a kennel permit. It is unlawful to keep a domestic animal without complying with this subsection.

B. Domestic animals twelve weeks of age or older shall receive a city domestic animal registration tag only upon scheduling an appointment to rabies vaccinate at twelve weeks of age from a State of Alaska Department of Health and Social Services approved vaccinator.

C. A domestic animal's keeper shall provide proof of rabies vaccination by a valid rabies immunization tag and/or a valid rabies certificate for the registration of a domestic animal.

D. A domestic animal registration tag shall be issued for individually registered domestic animals for a period that shall expire in conjunction with the expiration date of the rabies vaccination.

E. An individually registered domestic animal shall bear a city domestic animal registration tag securely fastened to its collar, chain collar, or harness at all times or the keeper must be able to produce a copy of the written registration or tag within twenty-four hours except:

1. while confined on the keeper's premises, or
2. while in competition, in training, or while hunting.

F. It shall be unlawful for a kennel permittee to fail to produce documentation of domestic animal registration or immunization upon request of the animal control officer or agent.

G. If the keeper of a domestic animal changes, the new keeper shall, within fifteen days, have the current registration transferred to the new keeper's name. It is unlawful to keep a domestic animal without complying with this subsection.

H. It shall be unlawful to use, or allow the use of, any domestic animal registration tag for an animal other than the animal for which the registration tag was issued.

I. Except as otherwise provided in this section, the keeper of a domestic animal shall comply with the animal rabies vaccination requirements governed by the Centers for Disease Control and Prevention as described within 7 AAC 27.020(b). It is unlawful to keep a domestic animal without complying with this subsection.

J. Notwithstanding any other ordinance, registration of cats is not required but is encouraged.

**7.20.020 Kennel permit.**

A. A kennel permit is required to keep four or more domestic animals in the city. There is no limitation to the number of years that any individual may hold a kennel permit.

B. All domestic animals registered within the kennel permit must comply with DMC 7.20.010.

C. Kennel permits will be issued by the city manager or designee upon determination that the kennel will not create a public nuisance or threat to public safety and that the applicant will provide humane care to each kept animal.

D. The kennel permit shall be issued for a period of thirty-six months from the date the permit was granted upon the condition that under any change of three or more animals the keeper shall update the registered permit.

E. Failure by the keeper to maintain an orderly, humane, and sanitary kennel or the permittee's violation of this title may result in suspension or revocation of the kennel permit following an informal hearing on the animal control officer's intent to suspend or revoke the permit.

F. An appeal of a denial, suspension, or revocation of a kennel permit must be made in writing and received by the city manager's office within 30 days of the date the applicant or permittee is informed of the decision or mailed a written decision.

G. A decision regarding a kennel permit may be appealed to the city council. The city council will, after public hearing, make a finding as to whether a permit may or may not be properly issued.

**7.20.030 Surrender of unwanted animals.**

A. The keeper of an unwanted animal may surrender the animal for immediate adoption by bringing the animal to the animal control center and upon payment applicable fees; provided, that:

1. The animal is more than 12 weeks old; and
2. The keeper provides an affidavit that the animal is not aggressive and has not harmed a person or another animal prior to being surrendered.

B. Acceptance of unwanted animals is at the discretion of animal control officer or agent and upon space being available at the shelter.

C. The animal control officer may waive the fees described in 7.10.050 if the officer determines that the waiver of such fee is reasonably necessary to ensure the humane care of an animal.

**7.20.040 Sale and transfer of animals.**

It is unlawful to purchase, sell, or give away any animal known, or should reasonably be known, to be unweaned, diseased, injured or otherwise physically defective without first disclosing to the buyer or recipient the nature of the disease, injury or defect.

**7.20.050 Wolf hybrids prohibited.**

It is unlawful to own, possess, keep, maintain, harbor, transport, sell or advertise for sale any wolf hybrid within city boundaries except as provided under 5 AAC 92.030 and any wolf hybrid that bites a human shall be immediately euthanized and its head submitted for rabies testing.

## Chapter 7.30 Impound, Protective Custody, and Quarantine

### Sections:

- 7.30.010 Seizure of animals for protective custody.
- 7.30.020 Impound.
- 7.30.030 Notice of impound or protective custody.
- 7.30.040 Release of animal to keeper.
- 7.30.050 Adoption.
- 7.30.060 Euthanasia.
- 7.30.070 Rabies control.
- 7.30.080 Conditions of quarantine
- 7.30.090 Interference in official duties.

### **7.30.010 Seizure of animals for protective custody.**

A. The animal control officer or agent may place into protective custody any animal upon a veterinarian's determination that it is in the immediate best interest of the animal that it be placed into protective custody or, if the officer or agent is not able to communicate with a veterinarian, upon the officer's determination that it is in the immediate best interest of the animal that it be placed into protective custody.

B. An animal control agent with cause to believe that an animal is not receiving humane care may temporarily seize the animal for inspection by a veterinarian. If a veterinarian is not available to inspect the animal, the agent may communicate, by any available mean, to a veterinarian the agent's observations of the animal and its environment and the veterinarian may make a determination based upon this information. If a veterinarian determines that protective custody is not in the best interest of the animal, it shall be returned to its keeper without charge unless continued city custody of the animal is otherwise authorized by this title.

### **7.30.020 Impound.**

A. An animal control agent may impound any at large or stray animal.

B. Upon a written witness statement or the animal control officer's observation, an animal control officer or agent may impound an animal that acts in a manner described in DMC 7.40.060.A.

C. A person who owns or is in lawful possession of property upon which there is an animal that acts in a manner described in DMC 7.40.060.A, or who observes an animal on public property or a public thoroughfare acting in a manner described in DMC 7.40.060.A, may seize the animal and hold it pending transfer to an animal control officer or agent for impound; provided no animal may be held in such private custody for more than twenty-four hours. A person who takes an animal into custody under this subsection shall:

1. Immediately call the animal control officer or agent to request a pickup of the animal, and
2. File a written witness statement with the animal control officer or agent, describing the incident.

### **7.30.030 Notice of impound or protective custody.**

A. An animal control agent who impounds or takes protective custody of an animal other than a stray shall notify the animal's keeper of the action in writing and of the keeper's right to have the animal released. Notification may be delivered in person, posted at the keeper's residence, or mailed to the keeper.



B. If the keeper of a seized animal is known, a reasonable attempt will be made to notify the keeper by phone or in person of their animal's whereabouts as soon as possible.

C. Animals held at the control center for 10 days and not claimed by the owner or keeper shall become the property of the city and upon determination of temperament may be put up for adoption, sent to a rescue group, or euthanized.

**7.30.040 Release of animal to keeper.**

A. Except as otherwise provided in this section, an animal may be released from quarantine, protective custody, or impound to its keeper if the animal is determined to be free of rabies or other contagious disease and upon payment of all fees specified in DMC 7.10.060 as well as the actual costs of any veterinary care provided to the animal.

B. An animal may not be released to the animal's keeper if:

1. the animal is not registered as required by this title,
2. the animal was taken into protective custody and the keeper fails to provide the animal control officer adequate assurance that the animal will receive humane care if released,
3. the keeper has been found to have committed an act of cruelty to an animal or an animal cruelty investigation is ongoing,
4. the animal has been adopted, or
5. Any provision of this title restricts or prohibits such release.

C. If the animal has been classified as aggressive under DMC 7.40.050, prior to releasing the animal the animal control officer may inspect the premises where the animal is kept to ensure that, to the officer's reasonable satisfaction, that the requirements of DMC 7.40.070 will be satisfied.

D. The animal control officer has discretion to not release an animal to its keeper if the animal has been impounded 3 or more times in the previous 60 days. Such an animal shall be considered abandoned.

E. Appeal of the animal controls officer's decision to not release an animal must be made in writing and received by the city manager's office within five business days of the date the request for the animal's release was denied. The appeal shall be governed by DMC 7.40.080.

**7.30.050 Adoption.**

A. The city may adopt out to a person capable of providing humane care an adoption-eligible animal in the city's custody.

B. If the person interested in adoption had been previously registered as or known to be the keeper of the animal, the person shall pay all fees and costs that would be applicable if such animal were being released from impound.

**7.30.060 Euthanasia.**

A. The following animals may be euthanized at any time:

1. an animal exhibiting symptoms of a major infectious or contagious disease, as determined by a licensed veterinarian if available, that is a danger to the health and safety of the public or other animals within the city;
2. an animal that in the judgment of the animal control officer or agent is injured or suffering to the extent that it should be euthanized for humane reasons. When reasonably

possible, the opinion of a licensed veterinarian will be obtained prior to euthanasia under this subsection;

3. an abandoned animal that is not adoption eligible or have been unable to be adopted;
4. an animal deemed by the animal control officer in conjunction with the Police Chief to be dangerous and a safety risk to the animal control officer or the public.

B. Euthanasia, of an animal in the custody of the City, may be accomplished in the following manner:

1. By a licensed veterinarian, or a technician trained and certified under the Permit For Use of Drugs To Euthanize Domestic Animals as specified in AS 08.02.050.

2. An animal may be shot by a law enforcement officer, a veterinarian, or an agent or designee of the Animal Control Officer, if it is restrained in a humane way, it is performed by a highly skilled and trained person using a weapon that will produce instantaneous death by a single shot.

C. The animal control officer shall maintain a list of animals euthanized including a description of the animal and the condition for euthanasia, available for review by the general public.

D. A reasonable effort shall be made to contact the keeper of a non-stray animal prior to euthanasia unless, in the sole opinion of the animal control officer or other responsible official, the animal is suffering unduly.

#### **7.30.070 Rabies control.**

A. The city animal control officer, under the direction of the city manager, shall cooperate with other agencies in establishing a rabies control program for the city.

B. All persons shall report to an animal control officer or agent any suspected or positively diagnosed occurrence of rabies as soon as such occurrence becomes known to the person.

C. No person may kill any suspected or confirmed rabid animal or an animal subject to quarantine except to defend a human, or domestic animal, being from death or bodily injury, unless otherwise provided in this title.

D. Any at large animal suspected of being rabid and evading attempts to be caught may be shot by an animal control officer or agent and the head sent to the appropriate laboratory for examination of rabies disease.

E. Only an animal control officer or agent may remove the carcass of any suspected or confirmed rabid animal from the location where the animal was killed or found.

F. The carcass of an animal suspected of being rabid shall upon demand be surrendered to an animal control officer or agent or to the Department of Health and Social Services.

G. Any animal that bites a person or animal shall be quarantined for no less than ten days, and if such bite was without provocation, the keeper shall pay all costs of quarantine.

H. Animals that have been exposed to an animal that has bitten a person may be quarantined at the animal control officer's discretion.

I. If the animal control officer or agent reasonably suspects an animal to have rabies, that animal shall be quarantined immediately and/or euthanized.

J. An unvaccinated animal that has been bitten by an animal diagnosed as rabid shall be euthanized immediately.

K. If a bitten animal has a current rabies vaccination, the animal shall be re-vaccinated immediately and quarantined and, except as otherwise provided in this section, its keeper shall comply with the standard requirements for animal rabies vaccination in 7 AAC 27.020(c).

L. Any animal classified as aggressive under DMC 7.40.050 and reasonably suspected of being rabid may be euthanized before completion of quarantine and, if practical, the keeper will be notified.

M. When there has been a positive diagnosis of rabies within the city, the city manager or the city manager's designee may declare an area-wide quarantine for such period of time as determined necessary and there shall be no animals transported, taken, or removed from the city without the prior written consent of the city manager. Except as otherwise provided in this section, every keeper shall quarantine his or her animal.

**7.30.080 Conditions of quarantine.**

A. Every quarantined animal not kept in an animal control center will be kept in a secure enclosure such as a house, closed garage, other building or basement, and a quarantine sign shall be posted so that it is visible from the outside of the property. If the animal is taken outside to relieve itself, it must be on a leash held by a competent person fifteen years or older and must be returned to the enclosure immediately. The keeper shall inform the animal control officer or agent where the animal is being quarantined.

B. An animal shall remain quarantined until released, in writing, by the animal control officer or agent. No other person may release an animal from quarantine. The animal control officer or agent may require that an animal be inspected by a veterinarian before releasing it from quarantine.

C. If the animal should become sick, die or escape, the animal control officer or agent shall be notified immediately. If the animal is sick or dying, it shall not be removed from quarantine.

D. No person may remove a quarantined animal from the city without notifying the city manager in writing at least two business days before the intended removal and obtaining the city manager's written consent.

E. The animal control officer or agent may direct that a quarantined animal be quarantined at the animal control center. An animal with no proof of current rabies vaccination shall be quarantined at the animal control center.

**7.30.090 Interference in official duties.**

It is unlawful for any person to:

A. Open a vehicle being used to transport animals to the animal control center, open the doors of the animal control center, or open or tamper with the doors of a live trap with the intent of allowing impounded animals to escape; or

B. intentionally, recklessly, or with criminal negligence

1. interfere with the animal control officer or agent in performance of a duty under this title, or

2. tamper with any equipment used in the performance of any duty under this title.

## Chapter 7.40 Care and Control of Animals

### Sections:

- 7.40.010 Humane care of animals.
- 7.40.020 Animal cruelty.
- 7.40.030 Restraint.
- 7.40.040 Animals creating disturbance or nuisance.
- 7.40.050 Aggressive animal determination.
- 7.40.060 Aggressive animal classifications and exceptions.
- 7.40.070 Regulation of classified animals.
- 7.40.080 Appeal of animal control officer determinations.

### **7.40.010. Humane care of animals.**

A person who keeps an animal shall provide the animal:

1. sufficient wholesome and nutritious food which will keep the animal in healthy physical condition;
2. sufficient quantities of fresh water which meet the hydration requirements for the animal;
3. adequate shelter which provides adequate air and ventilation and which prevents the animal from being exposed to inclement or adverse weather conditions, overheating from sunlight, unsanitary conditions and dirty, wet and uncomfortable conditions which may endanger the health or welfare of the animal;
4. veterinary care when needed to treat the animal for sickness or disease or to prevent suffering of the animal;
5. sufficient exercise as needed by the animal; and
6. protection from acts of animal cruelty.

### **7.40.020 Animal cruelty.**

A. The following constitute unlawful acts of animal cruelty:

1. Failure to provide humane care to an animal in the person's keep;
2. Wounding, injuring, tormenting, poisoning, provoking or otherwise physically abusing an animal; and
3. Killing, other than for humane purposes, or injuring any animal unless such act is lawful hunting or authorized by law.

B. A person who believes that cruelty to an animal has occurred may file a written complaint with the public safety department.

### **7.40.030 Restraint.**

A. It is unlawful for the keeper of any animal to allow the animal in or on city property, sidewalks, downtown, parking lots, public paths, public streets or roads, and playground areas unless controlled by leash or harness.

B. It is unlawful for the keeper of any animal to allow the animal allowed outside the confines of the keeper's home or property and not under the direct physical control or command of the keeper unless the animal is securely restrained by means of chain, harness, or leash.

C. It is unlawful for any person, other than a peace officer or animal control officer in the performance of duties, to release an animal from restraint without the consent of the animal's keeper except to preserve the animal's life or prevent injury.

**7.40.040 Animals creating disturbance or nuisance.**

A. It is unlawful for the keeper of an animal to allow it to disturb the public health, safety, or peace by allowing the animal to make chronic animal noise.

1. The animal control officer or agent may, upon receiving a complaint alleging chronic animal noise, investigate and, if necessary, issue a warning notice to the animal keeper. The notice shall contain:

- a. The definition of chronic animal noise,
- b. The nature and times of complaint,
- c. Penalties for the violation,
- d. A description of the means and methods suggested to and/or agreed upon with the keeper for curtailing the problem, and
- e. Time permitted to comply with the notice.

2. If the violation continues after the time permitted by the notice to comply, a citation may be issued in accordance with subsection A.3. of this section.

3. Citations for chronic animal noise shall only be issued upon one of the following:

- a. A complaint sworn by two or more persons living at different addresses, one of whom must be the original complainant, in the immediate neighborhood of the animal making the chronic noise and after completion of an investigation by animal control officer or agent indicates that a citation is appropriate; or
- b. A complaint sworn by one person living in the immediate neighborhood of the chronic noise where additional date and time specific evidence is provided and after completion of an investigation by animal control officer or agent indicates that a citation is appropriate.

B. It is unlawful for the keeper of an animal to allow the animal to defecate without appropriate and immediate removal, to dig upon, injure or destroy public property, a public thoroughfare, or private property without the permission of the property owner.

C. It is unlawful for the keeper of an animal to allow the animal to upset, disturb, or place garbage on public or private property.

**7.40.050 Aggressive animal determination.**

A. Upon the occurrence of any animal behavior described in DMC 7.40.060.A, the animal control officer may determine the animal is aggressive and classify the animal as specified in DMC 7.40.060.

B. The animal control officer shall provide the keeper of a non-stray animal classified as aggressive written notice of the classification. Such notice shall advise the keeper of the following:

1. the essential facts supporting the officer's determination,
2. the relevant regulation of an animal so classified as set forth in DMC 7.40.070,
3. that the animal will be impounded and/or quarantined immediately upon issuance of notice, if applicable;
4. the planned time of euthanization of the animal, if planned, and

5. the opportunity to be heard before the city manager, or the city manager's designee, should the animal's keeper wish to appeal the animal control officer's classification decision.

C. Appeal of the animal control officer's aggressive animal determination must be made in writing and received by the city manager's office within five business days of the date the animal's keeper receives notice of the animal's classification or, for a stray, within five business days of the officer's decision. The appeal shall be governed by DMC 7.40.080.

**7.40.060 Aggressive animal classifications and exceptions.**

A. *Classifications.* Subject to subsection B below, an animal may be classified as aggressive based on the highest level behavior exhibited, with such levels described as follows:

1. Level one behavior is established if an unrestrained animal is found to growl, snap at, jump upon, or otherwise menace, injure, or frighten persons or other animals, provided chase, run after, or jump at vehicles or persons using the public thoroughfares, or otherwise threaten or endanger the safety of any person or domestic animal.
2. Level two behavior is established if an animal bites or causes physical injury to any domestic animal, or if an unrestrained animal kills any unrestrained domestic animal.
3. Level three behavior is established if any of the following occur, regardless of whether the animal is restrained:
  - a. An animal inflicts an aggressive bite or causes physical injury to any human;
  - b. An animal kills a domestic animal that is restrained; or
  - c. An animal for the second time injures or kills a domestic animal.
4. Level four behavior is established if any of the following occur:
  - a. An animal, regardless of whether it is restrained, causes serious physical injury or the death of any human;
  - b. An animal is used as a weapon in the commission of a crime; or
  - c. An animal previously classified as a level three, or as a potentially dangerous or vicious animal under a prior enactment of this Code, behaves as described in subsection A.3. after the keeper receives notice of the prior level three classification.

B. *Exceptions to classifications.* Notwithstanding subsection A above, the animal control officer shall have discretionary to refrain from classifying an animal as specified in subsection A if the animal control officer determines that:

1. At the time of injury or damage, the victim was committing trespass with criminal intent on premises occupied by the keeper of the animal, the victim was teasing, tormenting, abusing, or assaulting the animal, its offspring, the keeper, or the victim was committing or attempting to commit a crime;
2. The animal was protecting or defending itself, its offspring, or a human within the immediate vicinity of the animal from an attack or assault while under control or confined;
3. The animal is trained to attack persons independently or upon oral command while under the restraint and supervision of an authorized government or law enforcement unit and the act is directly associated with the proper execution of the animal's duties;
4. The animal, with a current rabies vaccination, causes injury to the keeper, keeper's family, trainer or person caring for the animal, unless:
  - a. A complaint is received from the injured party;
  - b. The victim is a minor who is not involved in training or competing with the animal; or
  - c. The animal is unredeemable.

5. The decision not to classify reasonably serves and promotes justice, fairness, and the purposes and intent of this title, the protection of public health, safety and welfare, and the humane care and treatment of animals.

C. In addition to any other action or remedy authorized by this title or any other law, it is unlawful for the keeper of an animal to allow the animal to behave in a manner described in DMC 7.40.060.A, and such keeper shall be guilty of a minor offense, punishable per act of the animal as shown in 1.20.040.

#### **7.40.070 Regulation of classified animals.**

In addition to other requirements of this title, the keeper of an animal classified as aggressive shall comply with the following classification requirements:

A. *Level one.* Animals classified as level one shall be restrained so the animal cannot reach any public sidewalk or adjoining property and located so as not to interfere with the public's access to the keeper's property whenever that animal is outside the keeper's home, provided, however; control by command shall not satisfy the requirements of this subsection.

B. *Level two.* Animals classified as level two shall be confined in a location which may include a secure enclosure or under control by leash only.

C. *Levels three.* Animals classified as level three shall at all times be confined in a locked secure enclosure or under control by a substantial leash or chain not to exceed six feet in length, and under the control of a competent adult who is familiar with and in control of the animal. The requirement of control is not satisfied by an electronic collar or electronic fence. Animals classified as level three shall also be muzzled when not on the keeper's property. It is a violation of this subsection to breed, sell, exchange or abandon an animal classified as level three, except as specifically provided in this chapter.

D. *Level four.* Animals classified as level four shall be euthanized in accordance to 7.30.060 B. In addition, the animal control officer may suspend for a period the keeper's right to be the keeper of any animal in the city, including animals currently kept by that person.

1. The animal shall be euthanized by the animal control officer or agent not less than three business days after providing actual written notice to the keeper of the animal, by hand delivery to the keeper, or by posting at the last known residence of the keeper.

2. The keeper of an animal classified as level four has the option to have such animal euthanized by someone of their choosing (i.e., veterinarian, close acquaintance, etc.), providing proof of date, time, and location to animal control officer or agent of the euthanasia.

E. In addition to any other action or remedy authorized by this title or any other law, it is unlawful for the keeper of an animal classified as aggressive to fail to restrain or confine the animal as required by this section.

#### **7.40.080 Appeal of Animal Control Officer Determinations.**

A. The issues to be considered at the hearing on an appeal of a decision made under DMC 7.30.040 shall be limited to whether the preponderance of the evidence supports the animal control officer's decision to not release the animal for a reason stated in DMC 7.30.040.B.

B. The issues to be considered at the appeal hearing of an aggressive animal determination under DMC 7.40.050 shall be limited to whether the preponderance of the evidence shows that the animal acted in a manner described in DMC 7.40.060.A and if any factor described in DMC 7.40.060.B should result in a lower categorization of the animal.

C. The issues to be considered at the appeal hearing of a denied kennel permit shall be limited to whether the preponderance of the evidence shows that the kennel constitutes or would constitute a public nuisance or threat to public safety, that humane care of each animal is not or would not be provided, or if the applicant or permittee is responsible for violation of this title.

D. The city manager shall issue a written decision to be delivered within 5 business days of the appeal hearing.

E. Appeal of the written decision of the city manager shall be to the Superior Court for the Third Judicial District in Dillingham and shall be brought within 30 days of the manager's decision. Hearing before the superior court is an administrative appeal heard solely on the record established before the city manager and the city shall be entitled to recover its costs and reasonable attorney's if it is the prevailing party. No enforcement action authorized by this chapter shall be stayed during the time to appeal or the pendency of the appeal unless ordered by the court.

F. An animal's keeper may prevent an animal's adoption or euthanasia under 7.30.050 A.3 by:

1. Petitioning the Superior Court for the Third Judicial District in Dillingham for the animal's immediate return, subject, if appropriate, to court-imposed conditions; or

2. Posting a bond or security with the city of Dillingham in an amount determined by the city manager to be sufficient to provide for the animal's care for a minimum of thirty days from the date the animal was removed.

3. If the animal control officer still has custody of the animal when the bond or security posted expires and the court has not ordered an alternative disposition, the animal becomes the city's personal property. If the court has not allowed the city to adopt out the animal and the city continues to care for the animal, the keeper of the animal shall post a bond or otherwise pay in advance for the city's continuing costs of care for the animal until a final decision is made by the trial court.

G. During any appeal process, it is unlawful to breed, sell, exchange or abandon an animal classified as level four or allow it to reside in any household containing animals.

**Section 3. Amendment to Section 1.20.040.** That Dillingham Municipal Code 1.20.040 – Minor Offense Fine Schedule is hereby amended to read as follows: [delete language is struck; added language is bold]

Code Section	Offense	Penalty/Fine
<del>7.03.010.A</del>	<del>Domestic animal registration required</del>	<del>75</del>
<del>.E</del>	<del>Registered domestic animal shall bear registration tag</del>	<del>75</del>
<del>.F</del>	<del>Failure to produce registration</del>	<del>75</del>
<del>.G</del>	<del>Failure to transfer registration</del>	<del>75</del>
<del>.H</del>	<del>Use of another animal's tag</del>	<del>75</del>
<del>.I</del>	<del>Rabies vaccination</del>	<del>75</del>
<del>7.03.020.A</del>	<del>Kennel permit required</del>	<del>75</del>
<del>7.04.010.A</del>	<del>Failure to restrain animal — first through fifth offense</del>	<del>75</del>
<del>.B</del>	<del>Failure to confine sick animal</del>	<del>75</del>
<del>.C</del>	<del>Releasing animal owned by another</del>	<del>75</del>
<del>.D</del>	<del>Releasing quarantined animal</del>	<del>300</del>
<del>7.06.010.A</del>	<del>Selling sick animals</del>	<del>75</del>
<del>.B</del>	<del>Buying or selling unweaned animals</del>	<del>75</del>
<del>7.06.020.A</del>	<del>"Free" animals — unweaned</del>	<del>75</del>



Code Section	Offense	Penalty/Fine
7.07.010.A	Animals creating disturbance or nuisance prohibited	75
.B	Animal disturbing public property	75
.C	Animal disturbing private property	75
.D	Animal disturbing garbage	75
7.07.020.B	Dangerous animals prohibited	75
7.08.010	Animal cruelty prohibited	300
7.09.030	Unlawful release of impounded animals	300
7.12.010	Possession of wolf hybrid	300
7.14.020	Violate quarantine	300
7.15.010	Handling rabid animals	75
7.15.020	Violate area-wide quarantine	300
7.20.010.A	Failure to register domestic animal	75
7.20.010.E	Failure to display registration tag	75
7.20.010.F	Failure to produce kennel registration	75
7.20.010.G	Failure to transfer registration	75
7.20.010.H	Use of another animal's tags	300
7.20.020.A	Failure to obtain kennel permit	75
7.20.040	Unlawful transfer of animal	75
7.20.050	Prohibited wolf hybrid	300
7.30.080.B	Unlawful release of quarantined animal	300
7.30.080.D	Unlawful removal of quarantined animal from city	300
7.30.090.A	Unlawful release of animal from animal control facility or vehicle	300
7.30.090.B	Unlawful interference in official duties	300
7.40.020.A	Animal cruelty	300
7.40.030.A	Failure to restrain animal on City Property	75
7.40.030.B	Failure to restrain animal in public	75
7.40.030.C	Unlawfully releasing an animal from restraint	75
7.40.040.A	Unlawful chronic animal noise	75
7.40.040.B	Animal disturbing property	75
7.40.040.C	Animal disturbing garbage	75
7.40.060.C.1	Level 1 aggressive animal act	75
7.40.060.C.2	Level 2 aggressive animal act	125
7.40.060.C.3	Level 3 aggressive animal act	300
7.40.060.C.4	Level 4 aggressive animal act	500
7.40.070.E	Classified animal restriction violation	500

**Section 4. Effective Date.** This ordinance is effective upon passage.

PASSED and ADOPTED by a duly constituted quorum of the Dillingham City Council on January 10, 2019.

SEAL.

Alice Ruby, Mayor

ATTEST:

Lori Goodell, City Clerk