



AGENDA ITEM REPORT

Ordinance 22-72, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code Title 20 Animals, Sections 20.04.020 Definitions, 20.08.010 Animals At Large, 20.08.040 Nuisance Animals And 20.32.020 Fine Schedule to Refine the Definition of “At Large”, Clarify Areas Where Animals Are To Be On Leash At All Times and Amend Related Fines. Venuti/Erickson

Ordinance 22-72(S), An Ordinance of the City Council of Homer, Alaska Amending Homer City Code Title 19, Parks, Campgrounds, and Public Places and Section 19.08.070, Certain Acts Prohibited; Section 19.20.020 General Rules, and Title 1, General Provisions, Section 1.16.040 Disposition of Scheduled Offenses. City Manager.

Item Type: Ordinance
Prepared For: Mayor and City Council
Meeting Date: 09 Jan 2023
Staff Contact: Rob Dumouchel, City Manager
Department: Administration
Attachments: [Ordinance 22-72](#)
[Ordinance 22-22-72\(S\)](#)
[Memo re Ordinance 22-72\(S\)](#)
[Memo 22-182](#)
[Memo 22-181](#)

Summary Statement:

See the attached information regarding Ordinances 22-72 and 22-72(S).

Staff Recommendation:

Ordinance 22-70 Introduction October 24, 2022 postponed to January 9, 2023 and Referred to Parks Art Recreation & Culture Advisory Commission. Public Hearing and Second Reading January 23, 2023.

Attachments:

[Ordinance 22-72](#)

[Ordinance 22-22-72\(S\)](#)

[Memo re Ordinance 22-72\(S\)](#)

[Memo 22-182](#)

[Memo 22-181](#)

**CITY OF HOMER
HOMER, ALASKA**

Venuti/Erickson

ORDINANCE 22-72

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA AMENDING HOMER CITY CODE TITLE 20 ANIMALS, SECTIONS 20.04.020 DEFINITIONS, 20.08.010 ANIMALS AT LARGE, 20.08.040 NUISANCE ANIMALS AND 20.32.020 FINE SCHEDULE TO REFINE THE DEFINITION OF “AT LARGE”, CLARIFY AREAS WHERE ANIMALS ARE TO BE ON LEASH AT ALL TIMES AND AMEND RELATED FINES.

WHEREAS, There has been an increase in the number of reports of dogs off leash causing severe disruption and incidents of unfavorable interactions between dogs, humans and wildlife in our parks, campgrounds, and parking lots over the past few years; and

WHEREAS, It is especially problematic when a member of the public requests another dog owner to please restrain their animal, and the situation becomes aggressively confrontational; and

WHEREAS, Current Homer City Code does not provide enough clarity and guidelines on the restraint of animals, definitions of “voice control” and “at large” require amendment; and

~~WHEREAS, Current Homer City Code does not provide enough clarity and guidelines on the restraint of animals, “voice control” has been proven not to work in many interactions, and what it means for an animal to be considered “at large” requires interpretation; and~~

WHEREAS, Enacted measures in current city code and public informational campaigns have been ineffective and failed to encourage positive behavior; and

WHEREAS, Homer Police Department has expressed support for the proposed amendments to city code; ~~and~~

~~WHEREAS, Amendments in this ordinance provide clarification on the requirements to restrain animals, which further ensure the overall enjoyment and safety of the public in the City of Homer parks, parking lots, campgrounds, and safeguard the areas dedicated as wildlife habitat.~~

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code Chapter 20.04.020 entitled, “Definitions” is hereby amended as follows:

43 “At large” means that an animal is off the property of its owner, ~~and not physically~~
44 ~~unrestrained by leash or chain.~~ and not under the direct control of a competent person.

45 Section 2. Homer City Code Chapter 20.08.010, entitled “Animals at large” is hereby
46 amended as follows:

47 a. No person may cause or permit an animal to be at large in a public street or alley, or on other
48 public property, ~~this includes such as city parks, campgrounds, parking lots, or designated~~
49 ~~protected wildlife habitat~~ or on private property without the property owner’s consent.

50 Section 3. Homer City Code Chapter 20.08.040 entitled “Nuisance animals” is hereby
51 amended as follows:

52 20.08.040 Nuisance animals.

53 a. No person may cause or permit an animal that the person owns or controls to:

54 1. Annoy another person by interfering with the latter’s sleep, work or reasonable right to
55 peace and privacy by making repeated or continued noise;

56 2. Defecate, dig upon or injure private property owned by another person or a public street,
57 ~~or alley,~~ **park, campground, parking lot, designated protected wildlife habitat** or other
58 public property;

59 3. Frequently or habitually growl, snap at, jump upon or otherwise menace, injure or
60 frighten another person who is not trespassing ~~or otherwise violating the law;~~ or

61 4. Chase, harass, or otherwise disturb or injure wildlife.

62 b. The Animal Control Officer or a peace officer may impound an animal that is engaging in
63 behavior described in subsection (a) of this section. A person, **in accordance with HCC**
64 **20.04.020** may restrain an animal from continuing to engage in behavior described in
65 subsection (a)(4) of this section, and shall promptly surrender any animal so restrained to the
66 Animal Control Officer for impoundment.

67 **c. A violation of subsection (a) of this section for the first conviction shall be punishable**
68 **by a fine of not less than \$50.**

69 ~~e.~~ **d.** A violation of subsection (a) of this section with three or more prior convictions shall be
70 punishable by a fine of not less than \$300.00 nor more than \$500.00, and the unsuspended
71 portion of the fine shall not be less than \$100.00. [Ord. 16-38(S)(A) § 4, 2016].

72 Section 4. Homer City Code Chapter 20.32.040 entitled “Fine schedule” is hereby
73 amended as follows:

74 20.32.020 Fine schedule.

75 Citations for offenses listed in this section may be disposed of as provided in AS 12.25.195
76 through 12.25.230, without a court appearance, upon payment of the fine amounts listed

77 below plus the State surcharge required by AS 12.55.039 and 29.25.074. Fines must be paid to
 78 the court. The Rules of Minor Offense Procedure in the Alaska Rules of Court apply to all
 79 offenses listed below. Citations charging these offenses must meet the requirements of Minor
 80 Offense Rule 3. If a person charged with one of these offenses appears in court and is found
 81 guilty, the penalty imposed for the offense may not exceed the scheduled fine amount plus any
 82 surcharge required to be imposed by AS 12.55.039 and 29.25.074. If an offense in this title is not
 83 listed in the fine schedule, the defendant must appear in court to answer the charges.

Code Section	Code Section Title	Fine per Day
HCC 20.08.010(a)	Animal at large	No prior First conviction \$50; One prior conviction \$100; Two prior convictions \$200
HCC 20.08.010(b)	Unauthorized release of animal from restraint	No prior conviction \$50; One prior conviction \$100; Two prior convictions \$200
HCC 20.08.030	Animals on harbor floats	\$25
HCC 20.08.040(a)	Nuisance animals	No prior First conviction \$50; One prior conviction \$100; Two prior convictions \$200
HCC 20.08.070	Female animals in heat	\$100
HCC 20.08.080	Abandonment of animals	\$100
HCC 20.08.090	Maintenance and sanitation	\$100
HCC 20.12.010	License required – Issuance	\$50
HCC 20.12.020	License tag to be worn and displayed	\$50
HCC 20.24.060	Furnishing false information	\$200
HCC 20.28.020	Kennel license – Required	\$100

84
 85 Section 5. This ordinance is of a permanent and general character and shall be
 86 included in city code.

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 88 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____th day of November,
 89 2022.

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CITY OF HOMER

KEN CASTNER, MAYOR

ATTEST:

MELISSA JACOBSEN, MMC, CITY CLERK

YES:

NO:

ABSENT:

ABSTAIN:

Introduction:

Public Hearing:

Second Reading:

Effective Date:

**CITY OF HOMER
HOMER, ALASKA**

City Manager

ORDINANCE 22-72(S)

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA AMENDING HOMER CITY CODE TITLE 19, PARKS, CAMPGROUNDS, AND PUBLIC PLACES, SECTION 19.08.070, CERTAIN ACTS PROHIBITED AND SECTION 19.20.020 GENERAL RULES, AND TITLE 1, GENERAL PROVISIONS, SECTION 1.16.040 DISPOSITION OF SCHEDULED OFFENSES.

WHEREAS, There has been an many instances of dogs off leash causing severe disruption in our campgrounds and parks; and

WHEREAS, Current Homer City Code does not provide enough clarity on the restraint of dogs within campgrounds and parks; and

WHEREAS, City staff have requested a clarification of language regarding loose dogs in campgrounds and parks; and

WHEREAS, Enacted measures in current city code and public informational campaigns have failed to encourage positive behavior.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code Chapter 19.08.070 entitled, "Certain acts prohibited" is hereby amended as follows:

f. Allow any dog owned, harbored, or controlled by a person to be **physically unrestrained and** at large in any City-owned or City-controlled campground. All fecal wastes of any dog discharged or deposited on any lands within a City-owned or City-controlled campground shall be immediately removed by the person owning, harboring, or controlling said animal and shall be deposited in trash receptacles or otherwise stored in containers pursuant to HCC [19.08.080](#);

Section 2. Homer City Code Chapter 19.20.022 entitled, "General rules" is hereby amended as follows:

g. **Dogs may not be physically unrestrained or at large within city parks. Dogs may be restricted from sensitive habitat areas by signage posted by the city.** A person having control or supervision of an animal that excretes feces in a park shall immediately collect and properly dispose of the feces.

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Section 3. Homer City Code Chapter 1.16.040 entitled, “Disposition of scheduled offenses – Fine schedule.” is hereby amended as follows:

CODE SECTION	DESCRIPTION OF OFFENSE	FINE
HCC 19.08.070(f)	Dog <u>physically unrestrained and</u> at large in City campground	\$300.00

Section 4. This ordinance is of a permanent and general character and shall be included in city code.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____th day of January, 2023.

CITY OF HOMER

KEN CASTNER, MAYOR

ATTEST:

MELISSA JACOBSEN, MMC, CITY CLERK

YES:

NO:

ABSENT:

ABSTAIN:

Introduction:

Public Hearing:

Second Reading:

Effective Date:



City of Homer

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Office of the City Manager

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Memorandum

TO: Mayor Castner and Homer City Council
FROM: Rob Dumouchel, City Manager
DATE: October 27, 2022
SUBJECT: Alternative Proposal to Ordinance 22-72

At the October 24th Council meeting, there was an extended discussion in the Committee of the Whole related to Ordinance 22-72 which proposed changes to Title 20 Animals. The item was postponed during the regular meeting for reevaluation after comments were received from the Animal Shelter Director indicating that it was not realistic for her organization to enforce the proposal under the scope of their current contract and staffing. The Animal Shelter's contract includes animal control services, but the City's current contract does not provide sufficient funding for the organization to patrol and enforce the rules suggested in Ordinance 22-72.

After a brief discussion with the Public Works Director and the Animal Shelter Director, I have put together an alternative proposal which instead focused on Title 19 Parks, Campgrounds and Public Places. The focus on Title 19 puts more of the enforcement impetus upon City staff, although Animal Control support would be available in extreme cases.

The amendments I'm proposing are as follows:

HCC 19.08.070 (f): (It shall be unlawful for any person to:) Allow any dog owned, harbored, or controlled by a person to be **physically unrestrained and** at large in any City-owned or City-controlled campground. All fecal wastes of any dog discharged or deposited on any lands within a City-owned or City-controlled campground shall be immediately removed by the person owning, harboring, or controlling said animal and shall be deposited in trash receptacles or otherwise stored in containers pursuant to HCC 19.08.080;

HCC 19.20.020 (g): **Dogs may not be physically unrestrained or at large within city parks. Dogs may be restricted from sensitive habitat areas by signage posted by the city.** A person having control or supervision of an animal that excretes feces in a park shall immediately collect and properly dispose of the feces.

HCC 1.16.040 already includes \$300 fines for violations of 19.08.070(f) and 19.20.020.

My intent with the phrase "physically unrestrained" is that a literal physical connection must exist between dog and handler. Electronic leashes are **not** sufficient as there is no physical connection.

I recommend that this targeted approach to restrict loose dogs in campgrounds and parks be followed by a period of animal control stakeholder engagement and a comprehensive review and update of Title 20 Animals.

Staff Recommendation: Replace Ordinance 22-72 with an updated ordinance focused on Title 19



City of Homer

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Memorandum 22-182

TO: MAYOR CASTNER AND HOMER CITY COUNCIL

THRU: ROB DUMOUCHEL, CITY MANAGER

FROM: PARKS, ART, RECREATION AND CULTURE ADVISORY COMMISSION

DATE: OCTOBER 10, 2022

SUBJECT: ORDINANCE 22-XX, AMENDING CHAPTER 20, ANIMALS SECTIONS 20.04.020 DEFINITIONS, 20.08.010 ANIMALS AT LARGE, 20.08.040 NUISANCE ANIMALS AND 20.32.020 FINE SCHEDULE TO REFINE THE DEFINITION OF "AT LARGE", CLARIFY AREAS WHERE ANIMALS ARE TO BE ON LEASH AT ALL TIMES AND AMEND RELATED FINES.

Background:

Over the years the Parks, Arts, Recreation & Culture Advisory Commission (PARC) has fielded complaints regarding unfavorable interactions between dogs, humans and wildlife in areas such as city owned campgrounds, beaches, parks, parking lots and sensitive or protected habitats such as Beluga Slough. These interactions have increased exponentially over the last few years and various city personnel and Commissioners have fielded numerous complaints and witnessed several incidents of dogs at large and not under the direct control of their owner.

The Commission has attempted to address the actions of owners who allowed their dogs to be at large by implementing non-punitive measures such as educational campaigns, providing free leashes and they have not worked.

The Commission has reviewed the proposed amendments to City Code addressing the issue regarding restraint and amending the fine schedule to hopefully bring the public more awareness and address the fact that voice command or control is not an effective measure to controlling animals. This lack of control has been acknowledged by Public Safety both city and state.

These proposed changes are supported by Homer Police Department.

Recommendation

Approve the proposed amendments to Homer City Code presented in the Ordinance 22-xx

Session 22-06, a Regular Meeting of the Parks, Art, Recreation and Culture Advisory Commission was called to order by Chair Dave Lewis at 5:30 p.m. on August 18, 2022 from the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska and via Zoom Webinar.

PRESENT: COMMISSIONERS FAIR, LOWNEY, HARRALD, ARCHIBALD, GALBRAITH, LEWIS

ABSENT: STUDENT COMMISSIONER FLORA AND COMMISSIONER ROEDL (EXCUSED)

STAFF: DEPUTY CITY CLERK KRAUSE
PUBLIC WORKS DIRECTOR KEISER
SPECIAL PROJECTS & COMMUNICATIONS COORDINATOR CARROLL
CITY PLANNER ABOUD

PENDING BUSINESS

B. Memorandum from Deputy City Clerk re: Amending City Code to Address Restraint of Animals in Specific Areas and Applicable Fees

Chair Lewis introduced the item and invited Councilmember Venuti to speak to the Commission.

Councilmember Venuti expressed her appreciation of the Commission on the work regarding leashes for dogs, receiving input from the Police Department and getting their support and was proud to sponsor the ordinance stating that she believed it to be well written and addressed the issues regarding dogs off leash in specific areas. Ms. Venuti noted that they have to get ahead of this issue and address the concerns and be proactive.

Chair Lewis questioned if it would be possible to address the responsibility of owner liable for what damage or injury that their pet does.

Councilmember Venuti stated that the question would be a question for the attorney. She confirmed with the Clerk that this draft would be submitted to the City Attorney for review.

LOWNEY/ARCHIBALD MOVED TO ACCEPT THE DRAFT ORDINANCE AMENDING CITY CODE IN REGARDS TO RESTRAINT.

Discussion and comments were made regarding it was overdue.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Deputy City Clerk Krause explained that a motion to forward the draft ordinance to a Public Hearing was required as that was the next step in the process.

HARRALD/FAIR - MOVED TO CONDUCT A PUBLIC HEARING ON THE PROPOSED DRAFT ORDINANCE TO AMEND SECTIONS OF TITLE 20 ANIMALS AT THE SEPTEMBER 15, 2022 REGULAR MEETING.

There was no further discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

CITY OF HOMER
PUBLIC HEARING NOTICE
PARKS, ART, RECREATION & CULTURE ADVISORY COMMISSION MEETING

A public hearing on the following matter is scheduled for Thursday, October 20, 2022 at 5:30 p.m. during the Regular Parks, Art, Recreation & Culture Advisory Commission Meeting at the City Hall Cowles Council Chambers and by Zoom webinar at zoom.us or Telephone Dial 1-669-900- 6833 or 1-253-215 8782; (Toll Free) 888-788-0099 or 877- 853-5247; use Meeting ID: 990 6701 0473 Passcode: 295088

An Ordinance of the City Council of Homer, Alaska Amending Homer City Code Title 20 Animals, Sections 20.04.020 Definitions, 20.08.010 Animals At Large, 20.08.040 Nuisance Animals and 20.32.020 Fine Schedule, To Refine the Definition of “At Large”, Clarify Areas Where Animals Are To Be On Leash At All Times and Amend Related Fines.

Additional information regarding this matter will be available by 5pm on the Friday before the meeting. This information will be posted to the City of Homer online calendar page for Thursday, October 20, 2022 at <https://www.cityofhomer-ak.gov/calendar>. It will also be available in the Downstairs Lobby at Homer City Hall and at the Homer Public Library.

Written comments can be emailed to the City Clerk’s Office at the address below, mailed to Homer City Hall at the address above, or placed in the Homer City Hall drop box at any time. Written comments must be received by 3:00 pm on the day of the meeting.

If you have questions, contact the City Clerk’s Office. Phone: (907) 235-3130, email: clerk@ci.homer.ak.us or in-person downstairs at Homer City Hall.



City of Homer

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Police Department

625 Grubstake Avenue
Homer, Alaska 99603

police@cityofhomer-ak.gov

(p) 907-235-3150

(f) 907-235-3151/ 907-226-3009

Memorandum 22-181

TO: Renee Krause, MMC, Deputy City Clerk II
FROM: Chief Robl
DATE: 9-26-2022
SUBJECT: City Ordinance Revision of Title 20

I am in support of amending Title 20 regarding animals at large and nuisance animals. I fully support increasing the associated fines.

We do not issue many citations under this ordinance section. Problems with animals being at large, dogs off of leashes, etc. are seldom brought to our attention. We have records of four animal at large complaints in the last two years. In three of the four cases responding officers were not able to locate the offenders or identify them. In one case the animal owner was issued a warning. Approximately five years ago we dealt with a continuing problem of goats being at large and damaging private property in the Kachemak drive area. We issued over 20 citations in the case and eventually gained compliance from the goats' owners. This case eventually required the involvement of our city attorney.

Trying to define "noise" relating to complaints with animals is difficult to do. Relatively low amplitude noise in the form of continuous whining or whimpering from a dog can be extremely annoying. Birds can make various noises for a considerable period of time that is also low in volume but still very aggravating. I think leaving the noise definition alone and instead continuing to refer to repeated or continued noise in the ordinance is best. Having a firm definition of noise could restrict our ability to take enforcement action with this ordinance in some cases. We have run into issues trying to enforce the current ordinance. Two years ago we had a citizen report problems with a neighbors geese making continuous, irritating noise. He tape recorded the noises and we did eventually issue a citation in the case. The judge dismissed the case and stated; "This is Alaska and we have animal noises here". The goose noises continued and the citizen continued to tape record them. We listened to the recordings for hours and never noticed a new, louder or different noise than was originally reported so no further citations were issued. The city manager became involved in this case and helped to mediate it. I think we need to have the flexibility to judge noise complaints independently based on the circumstances of each case.