



**TOPPENISH CITY COUNCIL
STUDY SESSION AGENDA
JULY 6, 2020 – 5:00 P.M.**

REMOTE MEETING INSTRUCTIONS: Pursuant to Governor Inslee's Emergency Proclamation regarding suspending certain provisions of the Open Public Meetings Act during the COVID-19 Outbreak, Toppenish City Council Chambers will not be open for the public to attend the meeting in person.

To remotely attend this meeting in "listen only" mode register at [GoToWebinar](#) [Webinar ID 478-882-307] After registering, you will receive an email confirmation containing information about joining the webinar. Email heidi.riojas@cityoftoppenish.us or call (509) 865-6754 with questions. Call-in information for "listen-only" mode is: (415) 930-5321 Access Code: 251-451-615

- 1. Call to Order/Roll Call**

- 2. Executive Session: [RCW 42.30.110(i)]**
 - Purpose:** Litigation
 - Time:** 45 minutes
 - Action:** No action is anticipated

- 3. Discussion on proposed updates for Toppenish Municipal Code Title 6 - Animals.**

- 4. Adjournment**

Next Regular Council Meeting will be on July 13, 2020.

**Title 6
ANIMALS**

Chapters:

6.04 Regulations Generally

6.06 Dangerous Dogs

6.08 Animal Restrictions

Chapter 6.04 REGULATIONS GENERALLY*

Sections:

- 6.04.010** Definitions.
- 6.04.020** License required – Exceptions.
- 6.04.030** License – Application – Issuance.
- 6.04.040** Record of license owners – City clerk-treasurer duty.
- 6.04.050** License term and fee schedule.
- 6.04.055** Rabies – Vaccination and certification required.
- 6.04.060** License fee – Late fee.
- 6.04.070** License fee – Spayed female dogs and neutered male dogs – Proof required.
- 6.04.080** License tag – Issuance.
- 6.04.090** License – Transferability – Applicability.
- 6.04.100** Lost tag – Replacement.
- 6.04.110** Running at large deemed nuisance when.
- 6.04.120** Restraint required – Exceptions.
- 6.04.130** Impoundment – Required when – Disposition of animals.
- 6.04.140** Impoundment – Dogs with identicode number – Disposition procedures.
- 6.04.150** Impoundment – Notice.
- 6.04.160** At large animals returned to owner when.
- 6.04.170** Impounded animal – Redemption.
- 6.04.180** Impound, care and destruction fees.
- 6.04.190** Animals in heat – Confinement required.
- 6.04.200** Animal behavior declared nuisance when – Complaint – Action.
- 6.04.210** Quarantine required when.
- 6.04.220** Suspected rabies infection – Killing prohibited when.
- 6.04.230** Humane treatment required.
- 6.04.240** Obstructing humane officer prohibited.
- 6.04.250** Provisions not applicable to nonresidents.
- 6.04.260** Violation – Penalty.
- 6.04.270** Transporting or confining in unsafe manner – Penalty.

*For statutory provisions regulating animals, see generally RCW Title [16](#); for provisions prohibiting vicious or diseased animals from running at large, see RCW [9.08.010](#) and [9.08.020](#); for the statutory provisions authorizing third class cities to regulate domestic animals, see RCW [35.24.290](#)(2); for statutory provisions authorizing third class cities to license and prohibit the running at large of dogs, see RCW [35.24.290](#)(6).

6.04.010 Definitions.

As used in this chapter:

A. “Allow” means to grant, approve or permit, by action or inaction.

B. "Animal" means any living creature, domestic or wild except man and fowl.

C. "Animal shelter" means any premises designated by the city manager for the purpose of impounding and caring for animals held under authority of this chapter.

D. "Humane officer" means the Humane Society or any person designated by the city manager to enforce this chapter.

E. "Humane Society" means the Yakima County Humane Society and the employees thereof.

F. "Kennel" means any person, partnership or corporation engaged in the business of breeding, buying, selling or boarding dogs and cats or any owner possessing four or more like animals for more than a 30-day period.

G. "Owner" means any person, partnership, company or corporation owning, keeping, possessing, having custody of or harboring animals in the city.

H. "Person" means an individual, partnership, company or corporation.

I. "Pet shop" means any person, partnership, or corporation engaged in the business of breeding, buying, selling or boarding animals of any species.

J. "Restraint" means that an animal shall be deemed to be under restraint if:

1. It is on the property of its owner or another entrusted with its care by the owner and the property is fenced or enclosed in such a manner that the animal cannot leave the property.

2. It is on the property of its owner or another entrusted with its care by the owner and attached to an immovable object by a chain, leash, rope or other such substance, the length of which cannot permit the animal to leave the limits of the property. The material used must be of sufficient strength to prevent escape of the animal.

3. It is off the property of the owner on a leash, rope or by other such means under the control of a person able to restrain the animal.

K. "Veterinary hospital" means any establishment maintained and operated by a licensed veterinarian for the diagnosis and treatment of diseases and injuries of animals. (Ord. B-220, 1982; Ord. B-13 § 1, 1973).

6.04.020 License required – Exceptions.

No person shall, without first obtaining a current license therefor in writing from the city clerk-treasurer, be the owner of any animal over three months of age, except that this section shall not apply to the keeping of small cage birds, cats or aquatic and amphibian animals kept solely as pets. (Ord. B-133 § 1, 1979; Ord. B-13 § 2(a), 1973).

6.04.030 License – Application – Issuance.

Each license shall be issued by the city clerk-treasurer in the name of the owner following payment of the applicable fee and completion of forms as provided by the clerk-treasurer, disclosing the owner's name, address, the name and type of the animal to be licensed, the age of the animal, its sex and, if female, whether or not the animal has been spayed, together with any other information the clerk-treasurer deems advisable. No person in the process of securing such license shall falsely represent any fact. (Ord. B-13 § 2(b), (c), 1973).

6.04.040 Record of license owners – City clerk-treasurer duty.

It shall be the duty of the city clerk-treasurer to keep and maintain a public list of all owners to whom licenses are issued, together with the number of the license tag issued to each owner, if any. (Ord. B-13 § 2(b), 1973).

6.04.050 License term and fee schedule.

The license shall be annual from July 1st until June 30th each year. Pet license fees shall be established by resolution of the city council, as amended from time to time, for female or male dogs which have not been spayed or neutered, for those female or male dogs which have been spayed or neutered, and for any dog kennel. (Ord. 2017-01 § 1, 2017; Ord. 2013-20 § 1).

6.04.055 Rabies – Vaccination and certification required.

A. An owner of a dog shall have it vaccinated against rabies and revaccinated following veterinary and manufacturer instructions.

B. No license shall be issued for any dog unless the license applicant shows written verification from a licensed veterinarian that the dog has been vaccinated against rabies and that such vaccination is current for the year the license is to be issued. (Ord. 2013-20 § 2).

6.04.060 License fee – Late fee.

In the case of animals previously licensed or required to be licensed, there shall be an additional late fee for each animal license which is purchased more than 31 days after the first day of July of any year. Such late fee shall be established by resolution of the city council, as amended from time to time. (Ord. 2017-01 § 1, 2017; Ord. B-13 § 3, 1973).

6.04.070 License fee – Spayed female dogs and neutered male dogs – Proof required.

Any owner claiming any dog is spayed or neutered shall file with the city clerk-treasurer a certificate from a licensed veterinarian to that effect. Absent such filing the fee for a dog that has not been spayed or neutered shall be assessed, unless proof satisfactory to the animal control officer is presented by the owner. (Ord. 2013-20 § 3; Ord. B-13 § 3, 1973).

6.04.080 License tag – Issuance.

Upon issuing a license to own any dog, the city clerk-treasurer shall issue to the owner a metallic or durable plastic tag, stamped with an identifying number and with the year of issuance, and so designed that it may be fastened to the animal's collar or harness by the owner, who shall provide that the tag shall be worn at all times by the animal. (Ord. B-133 § 3, 1979; Ord. B-13 § 4, 1973).

6.04.090 License – Transferability – Applicability.

Licenses issued under the authority of this chapter shall not be transferable either between animals or owners. Any license procured before December 10, 1973, shall not be affected hereby. (Ord. B-13 § 18, 1973).

6.04.100 Lost tag – Replacement.

Any owner of a licensed animal whose current license tag has been lost may obtain a replacement tag prior to impounding of such animal. Replacement tag fees shall be established by resolution of the city council, as amended from time to time. (Ord. 2017-01 § 1, 2017; Ord. B-13 § 5(a), 1973).

6.04.110 Running at large deemed nuisance when.

No owner shall allow any domestic animal or fowl of any kind to run at large during any hour of the day or night within the city on any street, alley, sidewalk, way, boulevard, park, public playground or schoolground, or in any other public place or building. Any animal so straying, entering or trespassing upon such property is declared to be a public nuisance and may be impounded in an animal shelter. (Ord. B-13 § 9, 1973).

6.04.120 Restraint required – Exceptions.

A. All dogs shall be kept under restraint by their owner. The provisions of this section shall not apply to dogs brought into the city for the purpose of participating in a dog show when actually participating in a dog show, nor to seeing eye dogs when actually being used to aid a blind person in going from place to place.

B. Unrestrained dogs or female cats in heat may be impounded in an animal shelter. (Ord. B-13 § 8, 1973).

6.04.130 Impoundment – Required when – Disposition of animals.

A. All sick or injured animals shall be impounded when not in the owner’s possession and may be humanely destroyed at any time after impounding at the discretion of the humane officer.

B. All other impounded animals shall be kept for not less than 72 hours. Animals not claimed by their owners within 72 hours shall be humanely disposed of or sold by the humane society. (Ord. B-13 § 10, 1973).

6.04.140 Impoundment – Dogs with identicode number – Disposition procedures.

If an impounded dog bearing an identicode number shall not be claimed and redeemed within 15 days of the notice provided for in TMC 6.04.150(D) then it may be sold by the humane officer or humanely destroyed as he sees fit. The humane officer shall deduct from the proceeds of sale the impounding and care fees, the notice expenses, and all other expenses therein incurred and the balance, if any, shall be deposited in the city general fund and shall be paid to the owner only upon a claim submitted within three months after the impound. No money shall be paid to any claimant except on proof satisfactory to the humane officer that the claimant is entitled to it, and no payment shall be made unless said claim is made in writing. If no payable written claim is filed within three months, the balance shall be forfeited to the city. (Ord. B-13 § 7, 1973).

6.04.150 Impoundment – Notice.

Upon the impounding of any animal the humane officer shall give notice of such impounding in substantially the following manner:

A. If the animal is licensed and is wearing a license tag, or if the identity of the owner is known to or can be readily determined by the humane officer, then as soon as reasonably practicable after the animal is impounded, the human officer may notify the owner by telephone or otherwise that his animal has been impounded and may be redeemed as provided in TMC 6.04.170.

B. If the owner is known to the humane officer, but cannot be notified under the provisions of subsection A of this section, or if the owner is so notified and does not appear to redeem his animal within 24 hours of the time of impounding, then the humane officer shall send by certified mail a notice in substantially the following form:

NOTICE OF IMPOUNDING

DATE_____

TO WHOM IT MAY CONCERN: I have this day impounded in the animal shelter at _____ Street, an animal described as follows:

Sex _____ Color _____

Breed _____ Approximate age _____. Other identification _____

Name of owner:

Notice is hereby given that unless said animal is claimed and redeemed on or before _____ o'clock on the _____ day of _____, 197__, the same will be sold or destroyed.

HUMANE OFFICER

C. If the owner is unknown to the humane officer and cannot be readily determined by him, he shall post at the city police station and the city hall notice in substantially the form prescribed in subsection B of this section.

D. If an impounded dog has an identicode number and such dog has not been claimed within 48 hours of the giving, mailing or posting of the first notice as prescribed in subsections A, B and C of this section, then the humane officer shall notify the district office of the National Dog Record Bureau of the impounding of such dog. (Ord. B-13 § 11, 1973).

6.04.160 At large animals returned to owner when.

Notwithstanding the provisions of TMC [6.04.110](#) through [6.04.130](#), if an animal subject to impound is found at large and its owner can be identified and located, such animal need not be impounded but may, instead, be taken to the owner. The humane officer shall serve upon the owner a citation and notice to appear for a violation of this chapter. (Ord. B-13 § 12, 1973).

6.04.170 Impounded animal – Redemption.

A. Any animal licensed for the current year which may be impounded while not under restraint may be redeemed by the owner upon payment of impounding and care fees.

B. Any animal not licensed for the current year which may be impounded while not under restraint may be redeemed by the owner upon payment of the impounding and care fees, and after obtaining a license for the current year.

C. The owner may be proceeded against for violating this chapter. (Ord. B-13 § 5(b), (c), (d), 1973).

6.04.180 Impound, care and destruction fees.

A. The impounding fee for the first impound of any animal belonging to an owner shall be \$8.50, for the second impound \$12.50, for the third and each subsequent impound \$17.50, for the impound of any animal of the same owner within 12 consecutive months.

B. In addition, the care fee for any impounded animal shall be \$2.00 per day or part thereof.

C. A destruction fee shall be charged for destroying an animal at the written request of the owner at the same rate as that charged the city. (Ord. B-133 §§ 4, 5, 1979; Ord. B-13 § 6, 1973).

6.04.190 Animals in heat – Confinement required.

Every female dog or cat in heat shall be confined in a building or secure enclosure by the owner, in such manner that such female dog or cat cannot come into contact with another animal except for planned breeding. (Ord. B-13 § 13, 1973).

6.04.200 Animal behavior declared nuisance when – Complaint – Action.

A. No owner shall fail to exercise proper care and control of his animals to prevent them from becoming a public nuisance. Excessive, continuous or untimely barking, howling, molesting people, viciousness, chasing vehicles, habitually attacking other domestic animals, trespassing upon school grounds, trespassing upon private property in such manner as to damage property, or causing undue annoyance shall be deemed a public nuisance.

B. Whenever it shall be affirmed in writing by three or more persons having separate residences, or regularly employed in the neighborhood, that any dog is a public nuisance, the humane officer shall serve notice upon the owner that such nuisance must be abated within 48 hours, after which the humane officer shall determine whether such nuisance has been abated and if not, the owner may be proceeded against for violation of this chapter.

C. Whenever any animal shall have been determined to be a public nuisance by reason of viciousness, molesting people or habitually attacking other domestic animals, with such behavior resulting in a conviction of violation under this section, then, in the discretion of the municipal court judge, and based upon the severity of the behavior, the animal shall be impounded and destroyed in a humane manner. (Ord. B-305 § 1, 1984; Ord. B-13 § 14, 1973).

6.04.210 Quarantine required when.

Any animal which bites a person shall be quarantined for 10 days if ordered by the director of public health. During quarantine, the animal shall be securely confined and kept from contact with any other animal. At the discretion of the director of public health, the quarantine may be on the premises of the owner. If the director of public health requires other confinement, the owner shall surrender the animal for the quarantine period to an animal shelter or shall, at his own expense, place it in a veterinary hospital. (Ord. B-13 § 16(a), 1973).

6.04.220 Suspected rabies infection – Killing prohibited when.

No police officer or other person shall unnecessarily kill or cause to be killed any animal suspected of being rabid, except after the animal has been placed in quarantine and the diagnosis of rabies made by a licensed veterinarian. If a veterinarian diagnoses rabies in an animal in quarantine, then the animal shall be humanely killed and the head of such animal sent to a laboratory for pathological examination and confirmation of the diagnosis. (Ord. B-13 § 16(b), 1973).

6.04.230 Humane treatment required.

No owner shall fail to provide animals with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment. No person shall beat, cruelly ill-treat, torment, overload, overwork, or otherwise abuse any animal, or cause or permit any dog fight, cockfight, bullfight, or other combat between animals or between animals and humans. No owner of an animal shall abandon such animal. (Ord. B-13 § 15, 1973).

6.04.240 Obstructing humane officer prohibited.

Any humane officer shall have police powers in the enforcement of this chapter and no person shall interfere with, hinder, molest or abuse any humane officer in the exercise of his lawful duties. (Ord. B-13 § 19, 1973).

6.04.250 Provisions not applicable to nonresidents.

The sections of this chapter requiring a license shall not apply to nonresidents of the city who are keeping only domestic pets; provided, that animals of such owners shall not be kept in the city longer than 30 days and that the animals are kept under restraint. (Ord. B-13 § 20, 1973).

6.04.260 Violation – Penalty.

Any person who violates or fails to comply with any of the provisions of this chapter, or who counsels, aids or abets any such violation or failure to comply, shall be deemed to have committed a civil infraction, punishable as set forth in Chapter 2.90 TMC, Civil Infractions. (Ord. 2008-5, 2008; Ord. B-13 § 17, 1973).

6.04.270 Transporting or confining in unsafe manner – Penalty.

Any person who willfully transports or confines or causes to be transported or confined any domestic animal or animals in a manner, posture or confinement that will jeopardize the safety of the animal or the public shall be guilty of a misdemeanor, and whenever any such person shall be taken into custody or be subject to arrest pursuant to a valid warrant thereof by any officer or authorized person, such officer or person may take charge of the animal or animals and cause it to be kept at the Humane Society Shelter in Yakima, Washington or other suitable place, and any necessary expense thereof shall be a lien thereon to be paid before the animal or animals may be recovered, and if the expense is not paid, it may be recovered from the owner of the animal or the person guilty. (Ord. 97-5, 1997).

Chapter 6.06 DANGEROUS DOGS*

Sections:

- 6.06.010 Definitions.**
- 6.06.020 Dangerous dog on premises.**
- 6.06.030 Dangerous dog off premises.**
- 6.06.040 Penalties.**

*Prior legislation: Ord. A-101.

6.06.010 Definitions.

As used in this chapter:

A. "Owner" means any person or legal entity having a possessory property right in a dog or who harbors, cares for, exercises control over, or knowingly permits any animal to remain on premises occupied by them.

B. "Dangerous dog" means:

1. Any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury to, or to otherwise endanger the safety of humans or other domestic animals; or
2. Any dog which attacks a human being or other domestic animal without provocation; or
3. Any dog known by the owner to be a pit bull terrier, which is defined as any American pit bull terrier or Staffordshire bull terrier or American Staffordshire terrier breed of dog, or any mixed breed dog which contains as an element of its breeding the breed of American pit bull terrier, Staffordshire bull terrier as to be identifiable as partially of the breed of American pit bull terrier, Staffordshire bull terrier or American Staffordshire terrier.

C. "Unconfined" means not securely confined indoors or not confined in a securely enclosed and locked pen or structure. Such pen or structure must have attached sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot.

D. "Permit" means human conduct in relation to an owned or harbored dog which is intentioned, deliberate, careless, inadvertent or negligent. (Ord. 86-27, 1986).

6.06.020 Dangerous dog on premises.

The owner of a dangerous dog shall not permit such dog to go unconfined upon the premises of such owner. (Ord. 86-27, 1986).

6.06.030 Dangerous dog off premises.

The owner of a dangerous dog shall not permit such dog to go beyond the premises of such person unless such dog is securely leashed and muzzled or otherwise securely restrained and muzzled. (Ord. 86-27, 1986).

6.06.040 Penalties.

Failure to perform any act required by this chapter, or the performance of any act prohibited by this chapter, is designated as an infraction and not a criminal offense, and shall be punishable by a fine of not more than \$500.00; provided, however, that if the court shall find that any person has committed two prior infractions, and has committed a third or subsequent violation, said person shall be guilty of a criminal misdemeanor and may be punished by a fine of not more than \$1,000 or by imprisonment for not more than 90 days, or by both such fine and imprisonment; and provided further, that if the court shall find that a dog has attacked and injured a person or other animal without provocation, the dog's owner shall be guilty of a criminal gross misdemeanor and may be punished by a fine of not more than \$5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment. (Ord. 2014-08 § 2, 2014).

Chapter 6.08 ANIMAL RESTRICTIONS

Sections:

6.08.010 Definitions.

6.08.020 Keeping of animals within city prohibited – Exceptions and conditions.

6.08.030 Slaughtering prohibited – Butchering restricted.

6.08.010 Definitions.

For purposes of this chapter, the following mean:

A. “Domestic animals” includes dogs, cats, birds and other animals raised and/or maintained in confinement, except livestock and poultry as defined herein.

B. “Livestock” means any farm animals, including horses, cattle, goats, mules, donkeys, sheep, pigs, and all other hoofed animals.

C. “Nuisance” means as follows: A nuisance is created when a domestic animal chases or bites a person, chases or bites another domestic animal, chases any motorized or nonmotorized vehicle on a public street, alley or other public right-of-way, damages property other than that of the owner or keeper, creates noxious or offensive odors, defecates upon any public place or upon premises not owned or controlled by the owner or keeper unless promptly removed by the owner or keeper, or creates an insect breeding and/or attraction site due to an accumulation of excrement.

D. “Person” means any individual, firm, partnership, corporation or other legal entity.

E. “Poultry” includes only chickens, turkeys, ducks, geese, pheasants, pea fowl, guinea fowl, and wild fowl. (Ord. 87-9 § 3, 1987).

6.08.020 Keeping of animals within city prohibited – Exceptions and conditions.

A. Except as hereafter provided, it is unlawful for any person to keep or permit to be kept any wild animals, livestock, poultry or rabbits within the city limits.

B. Horses and mules owned by a trolley operator who is duly licensed as required under TMC Title 5, Business Licenses and Regulations, may be continuously kept in the city within a B2, M1 or M2 zone, as defined by the official zoning map of the city, during the period from April 1st through October 31st of each year, or such greater term as the city council shall permit, upon application made and good cause shown, on condition that the trolley operator shall maintain compliance with the rules and regulations of the State Board of Health pertaining to the keeping of animals, the disposal of dead animals, and the accumulation and disposal of manure and urine, as set forth in Chapter 248-50 WAC.

C. Nothing herein shall be deemed to restrict or prohibit the temporary and duly licensed operation of an entertainment event within the city, such as a rodeo, circus, carnival, fair, livestock show or similar event involving livestock or other animals. Nor shall a duly licensed livestock sales business be prohibited or restricted by this section.

D. It is unlawful for any person to keep any domestic animal without providing humane care and veterinary care and veterinary care when required to prevent the spread of disease or the untreated suffering of any animal.

E. It is unlawful for any person to keep a domestic animal in such manner that creates a nuisance.

F. The keeping of domestic animals otherwise prohibited by this chapter shall be permitted for those persons who were keeping such animals at the time of the effective date of Ordinance 87-9 on September 21, 1987; provided, that the number of animals kept by such person shall not be increased; and provided further, that the right to continue keeping them shall be terminated in the event said keeping is interrupted by a period of nine months or more.

G. No more than 20 head of cattle and/or 10 horses may be kept at any one time on pastures situated upon the property within the city that is known as the Rodeo Grounds, owned by the Toppenish Rodeo and Livestock Association, located along the 600 block of South Division Street in Toppenish. (Ord. 2020-06 § 1, 2020; Ord. 2005-4, 2005; Ord. 2001-12 § 1, 2001; Ord. 96-7 § 1, 1996; Ord. 95-20 § 1, 1995; Ord. 87-9 § 4, 1987).

6.08.030 Slaughtering prohibited – Butchering restricted.

A. No person or firm except a licensed commercial slaughterhouse shall slaughter or dress any animal, fowl, or fish within the city at any time; provided, that wild game, fowl and fish legally taken for sport and not to be sold, or chickens or rabbits permitted under TMC [6.08.020\(D\)](#) may be dressed in an enclosed area and in such a manner so as to eliminate any and all potential for public viewing.

B. Except for licensed commercial butcher shops, lockers, or food stores, the butchering of animals or animal parts shall be conducted in an enclosed area and in such a manner so as to eliminate any and all potential for public viewing.

C. No person shall slaughter, dress or butcher as permitted by this section without disposing of all animal waste in a sanitary manner, as provided in Chapter [8.12](#) TMC. (Ord. 87-9 § 5, 1987).