

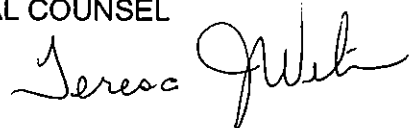
**AGENDA COVER MEMO**

AGENDA DATE: November 23, 2004; December 8, 2004

TO: LANE COUNTY BOARD OF COMMISSIONERS

DEPT.: LANE COUNTY OFFICE OF LEGAL COUNSEL

PRESENTED BY: Teresa J. Wilson, County Counsel



AGENDA ITEM TITLE: Ordinance No. 19-04/In the Matter of Amending chapter 7 of Lane Code to Add a Provision Pertaining to Filing of Rabies Vaccination Certificate, Issuance of Tag (LC 7.088)

I. MOTION:

**11/23/2004:** I move approval of the First Reading of Ordinance No. 19-04, and setting the Second Reading and Public Hearing for December 8, 2004 at 1:30 p.m.

**12/8/2004:** I move enactment of Ordinance No. 19-04, with Options \_\_\_\_, \_\_\_\_, \_\_\_\_.

II. ISSUE OR PROBLEM: The Lane County Animal Control Task Force recommended to the Board the adoption of a requirement that veterinarians report to the County the issuance of rabies vaccination.

III. DISCUSSION:

A. Background. The Lane County Animal Control Task Force presented its Final Report to the Board of Commissioners on December 3, 2003. In February, the Management Services Department worked with the Board to establish a matrix for proceeding to work through the recommendations, which has resulted in quarterly reports back to the Board to measure the progress.

One recommendation in the Task Force report was the adoption of a requirement that veterinarians report to the County the issuance of rabies vaccination. The proposed ordinance is designed to address that recommendation.

B. Analysis.

Statutory Context. The ordinance is written to fit into the context of existing statutes and regulations regarding rabies control (ORS 433.340-.390, ORS 433.990; OAR 333-019-0017 to 333-019-0027) and the Public Records Law, ORS ch. 192. State statutes already require dogs be inoculated against rabies, unless exempted by administrative rule. ORS 433.365. They also require the veterinarian to provide the owner with an inoculation certificate on a form prescribed by the State Department of Human Services (DHS). The owner then presents the certificate to the County in order to get a dog license; the County cannot issue a license without evidence the dog has been vaccinated. ORS 433.375. The County may issue a rabies tag for a fee (ORS 433.380), or may consider issuance of the dog license as acceptable evidence of

inoculation. ORS 433.377. If the County issues a rabies tag, the statutes dictate what must be on the tag and that it must be attached to the collar or harness of the dog. ORS 433.375(2)

A person who fails to have their dog inoculated or otherwise violates ORS 433.365 commits a Class B violation. The penalty for a class B violation is set by ORS 153.018 at \$360. In addition, any animal which is not inoculated is subject to being impounded under ORS 433.385. If the owner is known, he or she is given five days notice to redeem the animal by paying impoundment fees and a \$20 deposit. The deposit is refundable if within 8 days, the owner demonstrates proof of a rabies inoculation and purchase of a license. ORS 433.385.

The administrative rules establish certain exemptions for dogs, including: (a) those that are temporarily in the state for less than 30 days and under strict supervision, (b) those where an immunization is contraindicated for health reasons, and (c) those owned by dealers, breeders or exhibitors exclusively for sale or exhibition purposes and that are confined to kennels except for transportation under strict supervision to and from dog shows or fairs. OAR 333-019-0017(1). The rules also dictate what must be on the rabies vaccination certificate.

Ordinance provisions and options. The proposed ordinance adopts a new Lane Code Section 7.088. It is crafted within these statutes and regulations, as follows:

Subsection (1) requires the veterinarian to transmit a copy of the rabies certificate to the County Health Administrator.

Subsection (2) makes the Health Administrator or his/her designee responsible to administer LC 7.088. It is anticipated LCARA will be a designee.

Subsection (3) provides for the County to establish a rabies tag fee, and issue rabies tags.

Subsection (4)(a) provides that the information received from a veterinarian shall be considered part of the veterinarian's customer list and will be held confidential, to the extent allowed by law. However, it will be disclosed to DHS, LCARA, a physician or other medical personnel treating a person who has been infected, scratched or otherwise exposed to disease, or a veterinarian treating an animal which has been infected, scratched or otherwise exposed to disease, or to law enforcement investigating potential rabies transmission. The confidentiality aspect of this subsection is designed to protect the veterinarian's customer lists as an element of a trade secret pursuant to ORS 192.501, while still maintaining appropriate health or regulatory authority.

There are two options offered for Subsection (4)(b). Option 1 provides that the information received shall not be used to enforce any licensing provision of the Lane Code chapter 7. Option 2 provides that the information may be used for enforcement purposes. The Board is given the policy choice of how broadly or narrowly it wishes to use the information on the rabies certificate.

There are also two options offered for Subsection (5) penalties. Option 3 is the language that was in the draft ordinance offered by Commissioner Sorenson at the November 10 meeting. Option 4 simply clarifies that the violator against whom the penalty is assessed is the veterinarian.

Effective date and jurisdiction. This ordinance does not have an emergency clause. As such, it would become effective 30 days after enacted, unless the Board added an effective date

at the time of First Reading. In addition, it is in the nature of a "police power" ordinance. As such, it would be effective throughout the unincorporated portions of Lane County. It would only be effective within a city upon the consent of the governing body of a city or its electors. ORS 203.040.

IV. IMPLEMENTATION/FOLLOW-UP: The implementation and follow-up for this ordinance can best be addressed by the Department of Management Services, at the time of the staff report for the Ordinance.

V. ATTACHMENTS:  
Ordinance 19-04

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE NO. 19-04

IN THE MATTER OF AMENDING CHAPTER 7 OF  
LANE CODE TO ADD A PROVISION PERTAINING  
TO FILING OF RABIES VACCINATION  
CERTIFICATE, ISSUANCE OF TAG (LC 7.088)

The Board of County Commissioners of Lane County ordains as follows:

Chapter 7 of Lane Code is hereby amended by removing, substituting and adding new sections as follows:

**REMOVE THESE SECTIONS**

NONE

**INSERT THESE SECTIONS**

7.088  
located on page 7-2 through 7-3  
(a total of 2 pages)

Said section is attached hereto and incorporated herein by reference. The purpose of this substitution and addition is to add a provision pertaining to filing of rabies vaccination certificate, issuance of tag (LC 7.088).

ENACTED this \_\_\_\_\_ day of \_\_\_\_\_ 2004.

\_\_\_\_\_  
Chair, Lane County Board of Commissioners

\_\_\_\_\_  
Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 11/16/04 Lane County

Teresa J. White  
OFFICE OF LEGAL COUNSEL

**Euthanasia.** Putting an animal to death in a humane manner by a licensed veterinarian or a certified euthanasia technician.

**Livestock.** Includes but is not limited to cattle, sheep, horses, goats, swine, fowl, poultry or any furbearing animal bred and maintained commercially or otherwise within pens, cages and hutches, or domesticated wild animals.

**Muzzle.** A device constructed of strong, soft material or metal that complies with specifications to be adopted by the Director. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.

**Neutered.** The removal of the ovaries and uterus, ovarian hysterectomy, in female dogs. The removal of the male gonads in male dogs. Any other method of neutering a dog which is certified and performed by a licensed veterinarian.

**Noncommercial Dog Kennel.** An establishment or premises where three or more dogs, over six months of age, are kept or maintained. No more than two of the dogs shall be used for breeding. The term does not include an animal hospital.

**Person.** Any natural person, association, partnership, firm or corporation.

**Physical Injury.** Impairment of physical condition or substantial pain.

**Police Service Dog.** A dog used in police work by a law enforcement agency as defined in ORS 181.010(5) [1999 Ed.], whether or not the dog is being so used at the time in question. Unless specifically referred to therein, neither a police service dog or its handler are subject to any of the restrictions or regulations contained in LC 7.005 through 7.170.

**Secure Enclosure.** An enclosure, not including the residence, in which an animal is confined such that the animal does not have access to humans or other animals. The enclosure will not be less than eight feet long, four feet wide and five feet tall. If the floor is not concrete, the outside walls must extend into the ground not less than one foot to prohibit the digging out of the animal. The top of the enclosure must be covered.

**Serious Physical Injury.** Physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

**Watchdog.** A dog confined at a business for the exclusive use of protecting people or property of said business. *(Revised by Ordinance No. 19-72, Effective 10.13.72; 16-75, 12.26.75; 2-82, 4.9.82; 12-83, 6.17.83; 13-86, 11.7.86; 3-89, 5.12.89; 8-91, 6.26.91; 1-93, 4.16.93; 1-00, 4.12.00)*

#### **7.088 Filing of Rabies Vaccination Certificate, Issuance of Tag.**

(1) Upon the rabies vaccination of any dog, the veterinarian performing the vaccination shall transmit a copy of the vaccination certificate to the Lane County Health Administrator.

(2) The Health Administrator, or the Administrator's designee, shall be responsible for the administration of this section.

(3) A rabies tag fee, and a tag replacement fee, shall be established for those dogs required to be licensed pursuant to LC 7.070 and 7.075, and the fees shall be set forth in Lane Manual. Upon receipt of the fee, a serial-numbered rabies tag, identifying its expiration date, will be issued to the owner of the dog.

(4) (a) Information received from a veterinarian identifying any owner, address or phone number, or rabies tag serial number, shall be considered a part of the veterinarian's customer list, and will not be disclosed except to the following, who shall keep it confidential as permitted by law:

(1) Oregon Department of Human Services;

(2) Lane County Animal Regulation Authority;

(3) A physician, or any emergency medical personnel, treating a patient who has been bitten, scratched, or who may have been otherwise exposed to a zoonotic disease;

(4) A veterinarian treating an animal that has been bitten, scratched, or who may have been otherwise exposed to a zoonotic disease;

(5) Federal, state, and local law enforcement and prosecutorial agencies investigating potential rabies transmission.

Option (1)

(b) Any such information received shall not be used for the enforcement of any licensing provision of this chapter.

Option (2)

(b) Any such information received may be used for the enforcement of any provision of this chapter.

Option (3)

(5) Violation of this provision shall result in a Class C violation for the first offense; and a Class B violation for additional violations of this provision.

Option (4)

(5) Violation of this provision by a veterinarian shall result in a Class C violation for the first offense; and a Class B violation for additional violations of this provision.

Euthanasia. Putting an animal to death in a humane manner by a licensed veterinarian or a certified euthanasia technician.

Livestock. Includes but is not limited to cattle, sheep, horses, goats, swine, fowl, poultry or any furbearing animal bred and maintained commercially or otherwise within pens, cages and hutches, or domesticated wild animals.

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Person. Any natural person, association, partnership, firm or corporation.

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(1) Oregon Department of Human Services;

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**Bold** indicates material being added  
~~Strikethrough~~ indicates material being deleted

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Lane Code

**LEGISLATIVE  
FORMAT  
7.088-7.088**

(2) Lane County Animal Regulation Authority;  
(3) A physician, or any emergency medical personnel, treating a patient who has been bitten, scratched, or who may have been otherwise exposed to a zoonotic disease;  
(4) A veterinarian treating an animal that has been bitten, scratched, or who may have been otherwise exposed to a zoonotic disease;  
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