**MINUTES**

**REGULAR MEETING**

**DOWNEY CITY COUNCIL**

**TUESDAY, MARCH 10, 2020**

**7:00 PM**

**ATTENDANCE:** Mayor Rex Nielsen, Gary Barnes, Bonnie Hill, Dan Wilson, Brenda

Kay, and Tony Hancock. Councilman Grant Johnson arrived at 7:30 p.m.

**PATRONS:** Barbara Hill, Mel and Margie Hansen, Allen Hyde, Mary Cain, Joseph and

Melissa Huber, Mandee Burt, Officer Fullmer from the Bannock County Sheriff’s Department, Bearnard O’Doherty and Winter Millard.

**CALL TO ORDER:** Mayor Nielsen called the meeting to order and welcomed

everyone.

Dan Wilson offered the invocation and led the Pledge of Allegiance.

**ACTION ITEM – APPROVE MINUTES: Dan Wilson moved to approve the Minutes**

**of the Regular Meeting of the Downey City Council of March 10, 2020, seconded by Bonnie Hill, all voted aye, motion carried.**

**ACTION ITEM – APPROVE ACCOUNTS PAYABLE: Bonnie Hill moved to approve**

**the Accounts Payable of March 2020 in the amount of $35,638.49, seconded by Gary Barnes, all voted aye, motion carried.**

**LAW ENFORCEMENT:** Officer Fullmer reported from the Bannock County Sheriff’s

Office. Mayor Nielsen asked if the Lothrop property is still under investigation for the fire he had. Officer Fullmer will check on it and let the City know. Mayor

Nielsen thanked Officer Fullmer for coming. Officer Fullmer reported back that the Lothrop property is clear of the investigation.

**ACTION ITEM – CONSIDER APPROVAL OF BUSINESS LICENSE FOR HYDERO IRRIGATION, LLC, AND BEARNARDD O’DOHERTY: Bonnie Hill moved to approve**

**the Business Licenses for HydeRo Irrigation, LLC, and Bearnard O’Doherty, seconded by Dan Wilson, all voted aye, motion carried.**

**ACTION ITEM – CONSIDER APPROVAL OF ARBOR DAY PROCLAMATION:** Mayor

Nielsen read the following Arbor Day Proclamation:

**CELEBRATE ARBOR DAY**

Whereas, In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

Whereas, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

Whereas, Arbor Day is now observed throughout the nation and the world, and

Whereas, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife, and

Whereas, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

Whereas, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and

Whereas, trees, wherever they are planted, are a source of joy and spiritual renewal.

Now, Therefore, I Rex Nielsen, Mayor of the City of Downey, Idaho, do hereby proclaim

May 9, 2020 as Arbor Day in the City of Downey, and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and

Further, I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

Dated this 19th day of February 2020

Mayor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Gary Barnes moved to approve the Arbor Day Proclamation, seconded by**

**Bonnie Hill, by roll call vote: Gary Barnes, aye; Dan Wilson, aye; and Bonnie Hill, aye; motion carried.**

**ACTION ITEM – CONSIDER APPROVAL OF ARBOR DAY CELEBRATION LUNCHEON AND PRIZES FOR POSTER AND COLORING CONTEST WITH DOWNEY ELEMENTARY:** Mel Hansen, Tree Committee Chairman, reported

the Arbor Day Luncheon will be held on May 9, 2020, at the City Park.

The estimated cost will be $124 for the food. Prizes for a coloring and poster contest for the Downey Elementary students will be $90.

Joseph and Melissa Huber said they will donate $250 for the prizes for the contest at the elementary school.

**Gary Barnes moved to approve $214.00 for the Arbor Day luncheon and prizes for the poster and coloring contest, seconded by Dan Wilson, all voted aye, motion carried.**

**REVIEW DOWNEY CITY TREE ORDINANCE AMENDMENTS:** Changes are being

made to the Tree Ordinance, so it will be moved to another Agenda.

**ACTION ITEM – CONSIDER APPROVAL OF BRUCE AND MANDEE BURT’S BUILDING PERMIT:** Bonnie Hill reported in Section 8 of our City Ordinances, it states

a permit must be obtained prior to building. If the ordinance is violated, it is a Misdemeanor and carries a $1,000 fine or six months in prison. Bonnie did not recommend this, but went to the lower violation, which is an infraction of $100 per day for each offense. Each day is considered a new offense. The Burt’s have been doing this for six months, which would be $18,000 in penalties. Bonnie feels there should be a penalty and she would like to recommend at least a $1,000 penalty and let the Burt’s know if it is violated again, she would recommend the full max. Bonnie does not have a problem approving the Building Permit but feels there should be a penalty because of the violation. The City has talked to them about it before. Dan Wilson mentioned this is not the first violation.

Mandee Burt reported they went with a company from outside of the area and they guaranteed all these things they would have in place. She apologized for all the confusion and appreciates the consideration. The situation has been a nightmare in working with them.

The Clerk noted this item is not on the Agenda; however, Bonnie stated it is part of the permit and in order to approve the permit, it is a penalty.

Dan Wilson asked if we could put information in our newsletter about Building Permits being required for any building over 200 square feet. He also asked if it is in the information given to new residents moving to Downey. The Clerk reported there is information about building permits being required in the letter.

**Bonnie Hill moved to approve the Building Permit for Bruce and Mandee Burt, with a $1,000 fine for violation of the City Ordinance, seconded by Gary Barnes, all voted aye, motion carried.**

**ACTION ITEM – CONSIDER APPROVAL OF LIVESTOCK PERMIT APPLICATIONS FOR DEAN MOSER AND BEARNARD O’DOHERTY: Bonnie Hill moved to approve**

**the Livestock Permit Applications for Dean Moser and Bearnard O’Doherty,**

**seconded by Gary Barnes, all voted aye, motion carried.**

Mayor Nielsen stated he would like to look at hiring a code enforcement officer to enforce the ordinances. We need to discuss this at another meeting. There should also be some training involved.

Councilman Grant Johnson arrived at 7:30 p.m.

**ACTION ITEM – CONSIDER APPROVAL OF CHARGING A CLEANING DEPOSIT ON THE COMMUNITY CENTER RENTALS:** Mayor Nielsen informed the Council we

need to consider charging a cleaning deposit when renting the Community Center. Some people leave it clean and others don’t. K & M Professional

Cleaning cleaned it and did a good job. It will be a refundable deposit. Tony Hancock will check the building to make sure it has been cleaned adequately. The building rental fee is $35.00 or $50.00 if they use the kitchen.

**Bonnie Hill made a motion to double the rental fee of the Community Center as part of a cleaning deposit, with a refund of one-half of the fee upon an inspection by the City, seconded by Dan Wilson, all voted aye, motion carried.**

**DISCUSS SELLING CITY OWNED PROPERTY LOCATED ON MAIN STREET (BLOCK 40, LOTS 24-32):** Mayor Nielsen informed the City Council the lady who

purchased the Shadow West building came to him and asked if the City would

consider selling the property North of the Shadow West building. She would like

to build a home there. If the City wants to sell the property, it will have to go through a bid process. The property was purchased for about $35,000. The

Council needs to decide if they want to sell the property.

**DISCUSS ITEMS TO BE PUT ON A CONSENT AGENDA FOR CITY COUNCIL MEETINGS:** Mayor Nielsen informed the Council they need to decide what items they

would like to have on the Consent Agenda. The Clerk reported once items have been decided on, a Resolution will be presented for approval at the next Council meeting. Bonnie Hill suggested the following items be put on the Consent Agenda: Minutes, Accounts Payable, Livestock Permits that meet all requirements with the staff approving the requirements have been met, Building Permits that meet all requirements, and Business Licenses that meet all the requirements, all of the continuing ed or scheduled training for staff, and charity contributions. She would like to see bank statements and crime reports on it showing we are accepting what we have and any communication we receive from other agencies that does not require us to take any type of action.

**ACTION ITEM – CONSIDER APPROVAL OF THE ANIMAL CONTROL AND LIVESTOCK ORDINANCES:**

**DOWNEY ORDINANCE NO. \_\_\_\_\_\_\_\_\_\_**

**AMENDMENT TO ORDINANCE NO. 4-3-1 through 4-3-22**

**AN ORDINANCE AMENDING ORDINANCE NO. 4-3-1 through 4-3-22 PROVIDING FOR:**

**CHANGES IN DEFINITIONAL TERMS AND THE ADDITION OF A DEFINITION OF THE TERM “DESIGNEE”; EXCLUSION OF THE PITBULL BREED OF DOG FROM THE CITY; DETERMINATION OF NUMBER OF DOGS ALLOWED BY A SINGLE RESIDENCE OR COMMERCIAL KENNEL OR NON-COMMERCIAL KENNEL AND REQUIREMENTS FOR LICENSING OF COMMERCIAL AND NON-COMMERCIAL KENNELS; CHANGES IN THE CONTROL AND TERMINATION OF ANIMALS SUSPECTED OF RABIES; DEFINITIONAL TERMS FOR CRUELTY TO ANIMALS; CHANGES IN PENALTY FOR ANIMALS RUNNING AT LARGE; REMOVAL OF SOME TERMS REGARDING THE TYPE OF ANIMALS BEING ALLOWED IN PUBLIC BUILDINGS; REMOVAL OF SPECIFIC DESIGNATION FOR LIVESTOCK CROSSING PUBLIC WAYS; SUBSTITUTION OF “ANIMALS” IN LIEU OF “DOGS”; ALLOWING FOR ANIMAL CONTROL OFFICER OR CITY APPOINTED DESIGNEE TO ENFORCE ORDINANCE; REPEALING CONFLICTING ORDINANCES AND PROVIDING AN EFFECTIVE DATE.**

Be it ordained by the Mayor and City Council with the City of Downey, Idaho:

That Sections 4-3-1 through 4-3-22 be amended by adding and deleting certain portions of said ordinance and that a new and amended animal control ordinance be adopted to read as follows:

AMENDED ANIMAL CONTROL ORDINANCE

CHAPTER 3

ANIMAL CONTROL

SECTION:

4‑3‑‑1: Definitions

4‑3‑‑2: Animal Control Officer

4‑3‑‑3: License And Fee Requirements

4‑3‑‑4: Commercial Kennel Licensing And Requirements

4‑3‑‑5: Noncommercial Kennel Licensing And Requirements

4‑3‑‑6: Exceptions To Licensing

4‑3‑‑7: Rabies, Diseases And Quarantine; Vaccination Required

4‑3‑‑8: Cruelty To Animals

4‑3‑‑9: Commanding Animal To Attack

4‑3‑10: Wild Animals Prohibited

4‑3‑11: Running At Large

4‑3‑12: Noise Disturbances By Animals

4‑3‑13: Nuisance Conditions

4‑3‑14: Requirements For Keeping Vicious Dogs

4‑3‑15: Impoundment, Disposition And Redemption Of Animals

4‑3‑16: Disposition Of Sick Or Injured Animals

4‑3‑17: Removal Of Animal Carcasses

4‑3‑18: Treatment Of Fowl Or Rabbits

4‑3‑19: Use Of Animals To Attract Trade

4‑3‑20: Sale Of Turtles

4‑3‑21: Interference With Animal Control Officer

4‑3‑22: Violations; Penalties

4-3-23: Severability Clause

4-3-24: Repealer Clause

4-3-25: Effective Date

4‑3‑1: DEFINITIONS:

As used in this chapter, each of the terms defined shall have the meanings given in this section unless a different meaning is clearly required by the context. "Shall" is mandatory, not discretionary.

ABUSE: Any case in which an animal has been the victim of intentional or negligent conduct resulting in the animal's bruising, bleeding, malnutrition, dehydration, burns, fractures or breaks of any bones, subdural hematoma, soft tissue swelling or death.

ALLOW: To forbear or neglect to restrain or prevent; with regard to an animal running at large, it requires no intent or participation by the defendant, but is rather malum prohibitum.

ANIMAL: A mammal, fowl, reptile, fish or amphibian.

ANIMAL CONTROL CENTER: Any premises designated by the city for the purpose of impounding and caring for animals held under the authority of this chapter.

ANIMAL CONTROL OFFICER: Any person appointed by the city or any elected city official for the purpose of impounding and caring for animals held under the authority of this chapter.

ANIMAL EXHIBITION: Any exhibition or act featuring performing animals.

ANIMAL RUNNING AT LARGE: Any animal not under the control of its owner or custodian, remaining upon the streets, alleys or public places of the city, or upon any other premises not its own. All animals off their own property shall be either leashed or in a motor vehicle. In addition, they shall be under the supervision and control of the owner or custodian.

BUILDING: Any structure with substantial walls and roof securely affixed to the land and entirely separated on all sides from any other structure which is designated or intended for shelter, enclosure, or protection of animals.

CITY: The city of Downey.

COMMERCIAL DOG KENNEL: Any place of business for the care of dogs, including, but not limited to, the boarding, grooming, training, or selling of dogs. No more than five (5) dogs shall be kept in a commercial dog kennel not counting puppies under the age of six (6) months.

COUNCIL: The Downey city council.

CUSTODIAN: Any person having custodial care of an animal, on a temporary basis, at the request or with the consent of the owner or by that person's choice.

DESIGNEE: Any elected city official or employee designated by the City Council for the purpose of enforcing this Ordinance.

ENCLOSURE: A fence or structure of at least five feet (5') in height, framing or causing containment suitable to prevent the entry of young children and suitable to confine an animal in conjunction with other measures which may be taken by the owner, such as tethering of the animal. Such enclosure shall be securely enclosed, locked and designed with secure sides, top and bottom; it shall be designed to prevent the animal from escaping from the enclosure

IMPOUNDMENT: The taking of an animal by an animal control officer or other person on whose property an animal, other than his own, trespasses; impoundment begins from the moment of capture.

LIVESTOCK AND POULTRY: Cows, sheep, horses, goats, poultry, rabbits, pigs, hogs~~,~~ ducks, geese and other domestic animals ordinarily raised or used on a farm.

MISUSE: Intentional causing of an animal to perform a non-customary task which could be dangerous or harmful to the animal or to any person.

NONCOMMERCIAL DOG KENNEL: An establishment or premises where three (3) or more dogs but not more than five (5) dogs, over six (6) months of age, are kept or harbored for the hobby of the householder.

OWNER: Any person who owns an animal or who harbors or keeps an animal within the city limits for five (5) or more consecutive days. The legal responsibility for an animal owned by a person under the age of eighteen (18) years shall reside in the head of household.

PERSON: Any person, firm, partnership, association, business, trust, organization, corporation, company or other entity.

PIT BULL: A pit bull breed is defined as an American Pit Bull Terrier, American Staffordshire Terrier and Staffordshire Bull Terrier or any dog or mixed breed dog that has the appearance and characteristics of these breeds of pit bull.

RESEARCH FACILITY: Any college, university, or other research institution which uses live animals in research, tests or experiments.

SANITATION DIRECTOR: Any person appointed by the city to hold such position, or his employee.

VETERINARIAN: A duly licensed doctor of veterinary medicine.

VICIOUS ANIMAL: A. Any animal which, when unprovoked, in a taunting or

terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks, any public grounds or places, or private property not owned or possessed by the owner of the animal.

B. Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to endanger the safety of human beings or domestic animals.

C. Any animal which bites, inflicts injury, assaults, or otherwise attacks a human being or domestic animal without provocation.

D. Any animal owned or harbored primarily or in part for the purpose of fighting, or any animal trained for fighting.

E. Any animal which has been trained as an attack animal, except animals used by law enforcement agencies. Notwithstanding the above definitions of a "vicious animal", no animal may be declared vicious if any injury or damage is sustained by a person over the age of eighteen (18) who, at the time such injury or damage was sustained, was committing a willful act of trespass or other tort upon the premises occupied by the owner of the animal, or was teasing, tormenting, abusing, or assaulting the animal, or was committing or attempting to commit a crime. No animal may be declared vicious if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.

WILD ANIMAL OR EXOTIC PET: Any domesticated animal.

ZOOLOGICAL GARDEN: Any park or zoo operated by a person or public body. (2010 Code)

4‑3‑2: ANIMAL CONTROL OFFICER:

A. Selection; Authority: Animal control officers or Designee of the City Council may be selected and authorized to enforce this chapter with the authority to issue Idaho uniform citations under the supervision of the mayor and city council.

B. Shared Powers: Whenever a power is granted to, or a duty imposed upon, the animal control officer, the power or the duty may be performed by a deputy of the officer or by the county sheriff. (2010 Code)

4‑3‑3: LICENSE AND FEE REQUIREMENTS:

A. License and Certificate Of Ownership Required: The owner or custodian shall obtain a license and certificate of ownership for every dog owned by him or in his custody which has reached the age of six (6) months. A photo of each dog licensed will be required at the time of licensing. A maximum of five (5) dogs will be allowed per residence. No person may own or harbor a pit bull breed of dog.

B. City Office Licensing Authority: The license granting authority in the city shall be the Downey city office.

C. License Fees: Fees shall be set by resolution.

D. Collar and Tag Requirements; Duplicate Tag Fee:

1. Every dog shall at all times wear a substantial durable collar to which shall be securely attached the required license tag.

2. If the tag is lost, the owner or custodian may obtain a duplicate tag, for a fee as set by resolution, upon satisfactory proof of loss.

3. It is unlawful for any person to allow any dog owned, kept or harbored by him or her to wear a license tag received on account of a former license or to wear any imitation of the license tag issued by the city for that year.

4. The owner or custodian of the dog shall neither allow such dog to wear a rabies vaccination tag which has not been issued by a licensed veterinarian, nor allow such dog to wear a license or rabies vaccination tag which has expired or is calculated to deceive in any way.

E. Term Of License: All licenses shall be valid for a period of one year, from June 1 to May 31 of the following year. License fees shall not be prorated. It shall be the responsibility of the owner of each and every dog to obtain a new license annually within thirty (30) days of the expiration date.

F. Record Of Licenses And Certificates Issued: The ~~animal control center~~  City office shall keep a record of all licenses and the certificates of ownership issued under the terms of this chapter, which shall show the name, age, address and phone number of each owner or custodian, the number of the license, the name, sex, breed, age, and color of each ~~animal~~ dog the date issued, and the amount paid.

G. Number of Dogs Allowed. No single residence shall have more than five (5) dogs at such residence, not counting puppies under the age of six (6) months. Any single residence with more than three (3) dogs shall require a commercial or non-commercial kennel license. No person may own or harbor a pit bull breed of dog.

H. Failure To Obtain License; Fines Imposed:

1. The owner or custodian of any dog found to be within the city and found to be not licensed shall be issued a notice of violation and assessed a fee as set by resolution, to be collected by the animal control officer.

2. The fee shall be independent of any criminal fine which might be assessed by any court having jurisdiction due to misdemeanor prosecution for a dog not licensed.

3. The fee shall increase by five dollars ($5.00) if it remains unpaid for a period of ten (10) days.

4. If the owner of the dog is a minor, the head of the household in which the minor resides shall pay any fees or fines. (2010 Code)

4‑3‑4: COMMERCIAL KENNEL LICENSING AND REQUIREMENTS:

A. License Required; Compliance: An owner of a commercial kennel shall obtain a commercial kennel license according to the terms specified in this section. A maximum of five (5) dogs will be allowed per license or residence. A Commercial Kennel license must be renewed annually. No person may own or harbor a pit bull breed of dog.

B. Use And Premises Requirements; Payment Of License Fee:

1. Commercial kennel licenses shall be issued only when the use of the premises upon which the kennel is located conforms with zoning statutes and ordinances adopted by the city.

2. When the premises are in conformity with applicable zoning requirements and regulations, a commercial kennel license shall be issued upon payment of the fees specified in section 4‑3‑3 of this chapter, and shall be in lieu of individual dog licenses.

C. License Nontransferable; Annual Renewal: Commercial kennel licenses shall not be transferable, and shall be subject to annual renewal as specified in section 4‑3‑3 of this chapter.

D. Maintenance Of Animals: All dogs covered by a kennel license shall be maintained and kept within the kennel or under leash. (2010 Code)

E. Permit Requirements: Permission of seventy-five percent (75%) of neighbors within four hundred foot (400) radius of the place where the animals are to be kept must be obtained by the Applicant and written confirmation of the permission must be presented to the city council. The written permission of such nearby property owners will be required on an annual basis before a Commercial License may be renewed.

4‑3‑5: NONCOMMERCIAL KENNEL LICENSING AND REQUIREMENTS:

A. License Required; Compliance: The owner of a noncommercial kennel shall obtain a noncommercial kennel license from the Downey city office according to the terms specified in this section. A maximum of five (5) dogs will be allowed per residence or license. A noncommercial kennel license must be renewed annually. No person may own or harbor a pit bull breed of dog.

B. Application For License; Information Required: The application for a noncommercial kennel license shall include the name and address of the owner and the number of dogs to be kept.

C. Payment Of Dog License Fees: In addition to the above requirements, a noncommercial kennel licensee shall pay all individual license fees required in section 4‑3‑3 of this chapter.

D. License Nontransferable; Annual Renewal: Noncommercial kennel licenses shall not be transferable, and shall be subject to annual renewal as specified in subsection 4‑3‑3E of this chapter.

E. PERMIT REQUIREMENTS: Permission of seventy-five percent (75%) of neighbors within four hundred foot (400) radius of the place where the animals are to be kept must be obtained by the Applicant and written confirmation of the permission must be presented to the city council. The written permission of such nearby property owners will be required on an annual basis before a noncommercial Kennel License may be renewed.

F. Additional Number Of Dogs: Whenever an owner desires to make an addition to the number of dogs for which the commercial or noncommercial kennel license has been issued, the licensee shall follow the same procedure specified in subsections A through E of this section. In computing the license and license fee, Puppies born to a licensed dog under the age of six (6) months shall not be counted, but no more than 5 dogs per household will be allowed.

G. Other Provisions Applicable: The owner of a noncommercial kennel shall not be exempt from other provisions of this chapter, including the requirement for individual dog licensing, nor shall any of the provisions of this section be deemed to vary or alter any of the zoning regulations of the city.

H. Revocation Or Suspension Of Commercial or Noncommercial Kennel License:

1. Violations: The holder of any commercial or noncommercial license shall be subject to having his license suspended or revoked for any of the following violations:

a. Neglect or refusal to comply with the provisions of this chapter or with the conditions under which any license shall be issued.

b. Violation of any provision of this chapter.

c. Violation of any provision of the animal laws of the State of Idaho.

2. Notice Of Suspension Or Revocation; Hearing; Determination:

a. The Downey city office shall give notice of suspension or revocation to the holder of the commercial or noncommercial license, which notice shall set forth specifically the charges or grounds for which the license was suspended and the facts on which such suspension is based; such notice shall be served on the holder of such license.

b. The notice of suspension shall designate the time and place that a hearing shall be held before the council. If the council finds that the basis of either the suspension or revocation is substantiated, the license and all evidence thereof shall be surrendered by the holder of such license and shall be held by the clerk-treasurer until the end of the period of suspension; and in the event that a license issued under this chapter is revoked, the holder shall be ineligible to obtain another commercial or noncommercial kennel license for the period of one year from the date of such revocation.

I. Inspection Of Commercial And Noncommercial Facilities:

1. The animal control officer may inspect, or cause to be inspected, commercial and noncommercial kennel facilities for which licenses under this chapter have been issued as often as it may be necessary for the adequate control and supervision of such facilities.

2. The animal control officer shall have the right to enter all such facilities at any reasonable time for the purpose of making investigations and inspections and shall be charged with the responsibility of enforcing and administering the provisions of this chapter. (2010 Code)

4‑3‑6: EXCEPTIONS TO LICENSING:

The exceptions to licensing provisions shall be as follows:

A. Individual dogs on sale in a bona fide pet shop, ~~or commercial kennel~~ or individual dogs in a veterinary hospital. All dogs shall be enclosed or leashed at all times. City inspectors shall have the right to inspect all such facilities at any reasonable daytime hour.

B. Dogs that are visiting the city for a period not to exceed thirty (30) days and whose owner does not reside in the city. (2010 Code)

4‑3‑7: RABIES, DISEASES AND QUARANTINE; VACCINATION REQUIRED:

A. Proof Of Rabies Vaccination: All dogs within the city limits, ~~except those specified in section 4-3-6 of this chapter~~ shall have proof of a current rabies vaccination by a licensed veterinarian, beginning at six (6) months of age. Every owner or custodian shall, upon request of an animal control officer ordesignee, produce proof of such rabies vaccination. A current copy of the rabies vaccination shall be on file at the Downey city office before a dog license shall be issued.

B. Ownership Of Diseased Animals Limited: It is unlawful for a person other than a veterinarian, a hospital for small or large animals, or the animal control center to own, keep, or harbor any animal afflicted with rabies or any other infectious disease.

C. Confinement And Disposition Of Diseased Animals: The animal control center ~~or the owner~~ shall secure disposition of any animal afflicted with rabies or any infectious disease. If an owner or custodian refuses to surrender such animal, the animal control officer is empowered to seize such animal and transport it to a licensed veterinarian. The owner or custodian shall be responsible for all costs and fees for confinement and disposal.

D. Quarantine And Disposition Of Animal When Rabies Or Disease Suspected:

1. It shall be the duty of every owner or person keeping or harboring an animal showing symptoms of rabies, other infectious diseases, or which has bitten any person causing an abrasion of the skin, to surrender the animal for a period of ten (10) days. ~~or to confine the animal on the owners or custodians premises~~ The place of impoundment is at the discretion of the animal control center. If the animal to be impounded is left with the owner or custodian and if the animal is found outside the quarantine area designated by the owner or custodian, the animal shall be impounded by the animal control center and shall be subject to disposal.

2. Immediately following the ten (10) day quarantine, the animal shall be taken by the owner or custodian to a licensed veterinarian for examination to confirm the animal does not have rabies and to obtain a rabies vaccination if the owner or custodian has not

produced a current, valid certificate. A copy of such examination and rabies vaccination shall be delivered to the animal control center. Costs of such confinement, examination and vaccination shall be borne by the owner or custodian.

3. If such animal shall be determined free of rabies, it shall be returned to the owner or custodian upon payment of the regular fee for keeping such animal impounded. If such fee is not paid, the animal shall be subject to disposal.

4. No, animal control officer, designee or other person shall kill, or cause to be killed, any animal suspected of being rabid, except after the animal has been placed in quarantine and notification has been made to the public health department for pathological examination and confirmation of diagnosis. The only exception to this shall be if the animal in question is so vicious or wild that it cannot be restrained and the police officer or animal control officer or designee believes that further pursuit would result in losing the animal. The animal may then be killed with gunshot not aimed at the head of the animal. After the animal is dead, the head shall be severed from the body and sent to the public health department for examination and diagnosis.

E. Diseased Animals Running At Large: It is unlawful for any person to permit or allow any animal with a contagious or infectious disease to run at large upon the public streets, roads and ways of the city; or to be within and upon any public transportation facility or any other public building or place, whereby the health, safety, and well-being of the public or any member thereof, may be affected. (2010 Code)

4‑3‑8: CRUELTY TO ANIMALS:

A. Prohibited Acts, Conditions: It shall be unlawful for any person to act in a cruel manner to any animal. "Cruel manner" includes, but is not limited to, the following specific acts and omissions:

1. Failure by owner to provide such animal with:

a. Sufficient good and wholesome food and water.

b. Proper shelter and protection from the weather.

c. Proper veterinarian care to prevent suffering or threat of disease.

d. A clean and wholesome environment in which to live.

2. Any of the following acts with an animal:

a. Abuse or other mistreatment.

b. Torture .

c. Misuse or cruel treatment.

d. Overload or override an animal with excessive burdens.

e. Abandonment or leaving an animal without making reasonable arrangements for its care and custody.

f. Exposure to unreasonable danger to health and life.

3. The willful killing, maiming or disfigurement of any animal, or administration of poison or causing to be ingested any foreign object by any animal, or exposing any animal to any poisonous substance with the intent that it shall be taken by any animal, except pests of public health.

4. The setting of any trap within the city which is likely to be injurious to domestic animals. Humane traps may be available from the animal control officer. The provisions of this subsection shall not apply to animal control officers; agents of the animal control center; or to a designee when they are engaged in carrying out the duties assigned to them by this section; or to a research facility; or to licensed veterinarians when requested by the owner to dispose of an animal owned by him or her, in which case such veterinarian shall do so by a humane method.

B. Impoundment Of Abused Animals; Owner Responsible For Costs: Each day a violation is committed or permitted to continue shall constitute a separate offense. It shall be the duty of the animal control officer, or designee to take possession of any animal for which he has probable cause to believe falls under this section, and deliver such animal to the county animal control center. All costs incurred for the maintenance of such animal shall be paid by the person charged with the offense. (2010 Code)

4‑3‑9: COMMANDING ANIMAL TO ATTACK:

Except where great bodily harm or death is likely to immediately ensue, it is unlawful for any person to command, encourage, or aid by words or conduct, any animal to bite, chase, attack or attempt to bite, chase or attack another person or animal. (2010 Code)

4‑3‑10: WILD ANIMALS PROHIBITED:

It is unlawful for any person to harbor, keep, maintain, or possess any wild animal ~~without first having obtained a permit from Idaho department of fish and game~~. Animals that are considered to be "exotic" animals are unlawful for any person to harbor, keep, maintain, or possess. (2010 Code)

This section shall not apply to -Pheasants, chukars, partridge.

4‑3‑11: RUNNING AT LARGE:

A. Prohibition; Exceptions; Impoundment And Fees:

1. An animal owner or custodian shall be in violation of this chapter if his or her animal is found to be running at large as defined in section 4‑3‑1 of this chapter. No animal shall be considered running at large if:

a. Such animal is confined in a motor vehicle.

b. Such animal is under complete control of a person holding a leash not exceeding ten feet (10') in length which is attached to the animal.

2. Any animal running at large may be impounded and a fee imposed. The owner of any animal found to be running at large within the city shall be issued a notice of violation and assessed a fee or fine as set by resolution, per occurrence, to be collected by the Downey city office. The fee or fine shall be independent of any criminal fines by any court having jurisdiction due to misdemeanor prosecution for an animal running at large violation. The fee shall increase if it remains unpaid for a period of ten (10) days. If the owner of the dog is a minor, the head of the household in which the minor resides shall be responsible for any fees or fines.

$40.00 First Offense an infraction

$80.00 Second Offense an infraction

$100.00 Third Offense an infraction

Fourth Offense a misdemeanor under ordinance 1-4-1A

B. Certain Animals Allowed In Public Buildings, Facilities: It is unlawful for a person to permit, allow, keep or carry any animal in, upon, or within a public

building or facility unless the animal is a trained service animal. It is the intent of this chapter to permit and authorize the use of a trained service animal while using such facilities without being required to pay for any additional charges ~~or~~ ~~disturbances~~ caused by trained service animals, but the owner or custodian of said animals shall be liable for any damages or disturbances caused by the trained service animal.

C. Livestock Crossing Public Ways: No person shall lead, drive, or ride any livestock over, across or upon any sidewalk, parkway, or public parking area, or over or across any public park. (2010 Code)

4‑3‑12: NOISE DISTURBANCES BY ANIMALS:

A. Permitting Frequent Or Prolonged Noise: No owner or custodian shall permit his animal to utter frequent or prolonged noise which reasonably disturbs or annoys a person who lives or is in close proximity to the location of such animal.

B. Penalty For Subsequent Violations: Upon the second misdemeanor conviction for allowing the same animal to utter long and continued noise, the court shall order the impoundment and disposal of such animal. (2010 Code)

4‑3‑13: NUISANCE CONDITIONS:

A. Care And Control: It is unlawful for any owner to fail to exercise proper care and control of his animal to prevent it from becoming a public nuisance.

B. Allowing Nuisances: Every person shall be guilty of allowing an animal to become a nuisance when he allows the animal:

1. To make excessive, continuous or untimely barking or noise.

2. To molest passersby or to chase vehicles.

3. To attack other domestic animals.

4. To trespass upon public or private property in such a manner as to damage the property.

5. To deposit solid waste matter on the property of another or to let animal waste matter accumulate on his own property in such a manner as to affect the health or enjoyment of another. (2010 Code)

C. People walking pets, shall remove solid waste from streets, roadways, sidewalks and adjacent property. Vacant property is not an approved repository for animal waste and animal deposits.

4‑3‑14: REQUIREMENTS FOR KEEPING VICIOUS ANIMALS:

All vicious animals are prohibited within the city unless the following conditions are met:

A. Confining Within Secure Enclosure: No owner or custodian of an animal shall keep a vicious animal as defined in this Chapter, within the city limits unless such animal is confined within an absolutely secure enclosure.

B. Confinement Required; Specifications For Pen Or Structure:

1. A vicious animal shall be confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog.

2. The pen or structure shall have secure sides and either: a secure top attached to the sides, or be not less than ten feet (10') in height.

3. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground no less than one foot (1').

4. All such pens or structures shall be adequately lighted and kept in a clean and sanitary condition.

5. It is unlawful for any owner to maintain a vicious animal upon any premises which does not have a locked enclosure.

C. Muzzling AND RESTRAINING When Off Premises:

1. The owner of the vicious animal shall not allow or permit the animal to go beyond the premises of the owner unless the animal is securely muzzled and restrained by a chain or leash as described in subsection C2 of this section. The muzzle shall be made in a manner that shall not cause injury to the ~~dog~~ animal or interfere with its vision or respiration but shall prevent it from biting any human or animal.

2. The vicious animal shall be restrained with a chain having a minimum tensile strength of three hundred (300) pounds and not exceeding three feet (3') in length, and shall be under the direct control and supervision of the owner of the vicious animal.

D. Warning Signs; City Enforcement:

1. The owner of a vicious animal shall display in a prominent place on his premises a clearly visible warning sign indicating that there is a vicious animal on the premises. Such sign shall be in large enough lettering to be read from the street. A similar sign is required to be posted on the pen or kennel of the animal.

2. An animal control officer or designee is empowered to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this chapter, and any such animal control officer is empowered to seize and impound any vicious animal whose owner fails to comply with the provisions of this chapter. In the event that the owner of the animal refuses to surrender the animal to the animal control officer, the animal control officer may request the county sheriff to obtain a search warrant and to seize the animal upon execution of the warrant.

3. Any person submitting a complaint to the City requesting enforcement of this Chapter 3 must give a written statement describing alleged violation(s)of this Chapter signed by the complainant identifying the owner of the animal and providing sufficient details of the conduct of the animal and its owner(s) to satisfy the City or its animal control officer or designee that a violation of this Chapter has occurred. The Complainant must also indicate he or she will be willing to act as a witness, if necessary, in the prosecution of the owner of the animal who has violated this Chapter.

E. Penalty, Court Order For Violations:

1. Any animal which, when unprovoked, attacks, scratches, kills, wounds, bites or otherwise injures any human or domestic animal is "vicious". For such violation, the owner or custodian shall be subject to penalty as provided in section 1‑4‑1A of this code.

2. If this is the first offense for the animal, then the court shall set the matter for sentencing and notify the office of the city attorney of the date, time and place of sentencing. In addition to any fine and jail time imposed, the court may order as part of the sentence the animal be turned over to the animal control officer or designee for destruction. If the court does order the destruction of the animal, then it shall also order the animal control center to seize the animal in the event that it is not turned over to animal control within five (5) days of the order. Each day following the day of the order the animal is not turned over to the animal control officer is a separate misdemeanor. If this is a second offense for the animal, then the court, without

notice to the office of the city attorney, shall order as part of the sentence, regardless of the form of this judgment or any prior judgment, that the animal be turned over to the animal control officer or designee for destruction, and shall simultaneously issue an order to the animal control officer or designee to seize the animal, in the event it is not turned over within five (5) days, unless the office of the city attorney or the animal control center requests in writing that no destruction order be given. Each day following the day of the order the animal is not turned over to the animal control center is a separate misdemeanor.

F. Assault Described: Any animal which, when unprovoked, assaults any human or domestic animal, is "vicious". "Assault" includes, but is not limited to, lunging, excessive barking or growling or baring of teeth at any human or domestic animal through, by or near a fence.

G. Owner Liability: An adult owner of the vicious animal shall be liable for all injuries and property damage sustained by any person or domestic animal caused by an unprovoked attack by any vicious animal, plus all costs, civil judgments or penalties, criminal fines, final terms and any other penalties and orders. In the event the owner of the vicious animal is a minor, the parent or guardian of such minor shall be liable for all injuries and property damage sustained by any person or domestic animal caused by an unprovoked attack by any vicious animal, plus all costs, civil judgments or penalties, criminal fines, final terms and any other penalties and orders.

H. Dogfighting Prohibited: No person shall possess, harbor or maintain care or custody of any dog for the purpose of dogfighting, or train, torment, badger, bait or use any dog to attack human beings or domestic animals.

I. Notice To Animal Control Center Of Animal Bites Required:

1. When an owner or custodian of an animal has knowledge that his or her animal has bitten a human being, such owner or custodian shall notify the animal control center or the county sheriff's office of such bite, the time and circumstances of such bite, and the name and address of the owner, if known.

2. Any person who is bitten by an animal shall notify the animal control center or the county sheriff's office of such bite, giving description of the animal, the time and circumstances of the bite and the name and address of the owner, if known.

3. When a doctor, veterinarian, hospital employee or other person has information that a person has been bitten by an animal, such person shall notify the animal control center or the county sheriff's office. (2010 Code)

4‑3‑15: IMPOUNDMENT, DISPOSITION AND REDEMPTION OF ANIMALS:

A. Impoundment Authority: The animal control officer or designee shall use all legal means available to impound any animal whose owner or custodian has violated any section of this chapter or has allowed his animal to violate any section of this chapter.

B. Impoundment Of Trespassing Animal By Property Owner: Any person whose property has been trespassed upon by any animal in violation of this chapter may immediately apprehend such animal upon his premises and hold the animal until delivery to the animal control officer or designee. Any person who so impounds an animal on private property shall immediately notify the animal control office or designee ~~(if no answer, the county sheriff's office)~~ of such impoundment.

C. Request For Impoundment For Adoption Or Disposal:

1. Upon request, the animal control officer or designee shall impound for adoption or for disposal by the animal control center any animal no longer wanted by his owner. Such owner shall sign a statement attesting to the truth and legality of his or her ownership of the animal and pay a fee sufficient to defray shelter costs.

2. An animal owner may deliver an animal owned by him to the animal control center. Such owner shall sign a statement attesting to the truth and legality of his ownership of the animal and pay a fee sufficient to defray shelter costs.

D. Payment Of Costs Of Impoundment; Disposal Of Unclaimed Animal: The animal control officer or designee is empowered to impound any animal found either running at large or without a current license or without a current rabies tag, and the owner or custodian of such animal shall pay all costs incurred by the animal control center relating to the impoundment of such animal. If any impounded animal is unclaimed within three (3) days of its impoundment, such animal may then be sold or otherwise disposed of.

E. Care Of Animal By Animal Control Center; Notice To Owner Of Impounded Animal: The animal control center shall provide suitable and adequate food and water for all animals impounded under the provisions of this section. The animal control center shall keep any animal impounded for the period of time specified in this section. Except as provided in this section, the agents of the animal control center shall notify the owner or custodian of the animal, if known, as soon as possible after impoundment:

1. That such animal has been impounded.

2. The conditions under which such animal may be redeemed.

3. The period of time the animal shall be held.

4. The consequences of failure to redeem.

F. Records Of Impoundment And Disposition Of Animals: The animal control center shall keep a record of all animals impounded under the provisions of this section. Such record shall include a description of the animal, date of impoundment, date of notification, date of redemption, and record of fees paid or date of disposal or adoption. In the case of adoption, the record shall include the name, address and phone number of the person buying or adopting any animal.

G. Redemption Or Adoption; Payment Of Fees; Disposal:

1. Redemption of an impounded animal shall be made by exhibiting satisfactory proof of ownership and paying the required fees and charges which shall include, but not be limited to, mileage reimbursement to the Pocatello animal shelter, impoundment fee, daily care fee, any required license fees, and medical costs. All such fees, with the exception of medical costs, shall be set from time to time and adopted by the city council by resolution. Copies of such resolutions shall be kept on file and made available in the office of the city clerk-treasurer.

2. Any animal not wearing license tag, or an animal for which the owner or custodian cannot be identified, and which has not been redeemed by its owner or custodian within three (3) days after impoundment began, may be adopted upon application to the animal control center and payment of applicable adoption fees and license fees or disposed of in a humane manner. Euthanasia fees and adoption fees shall be kept on file and made available in the office of the city clerk-treasurer.

3. A licensed animal which has not been redeemed by its owner or custodian within three (3) days after notification of impoundment may be adopted upon application to the animal control center and payment of applicable adoption fees and license fees, or disposed of in a humane manner. Euthanasia fees and adoption fees shall be set from time to time by the city council by resolution. Copies of such resolution shall be kept on file and made available in the office of the city clerk-treasurer.

4. Unless an owner cannot be located, neither the city, nor the animal control center, nor the animal control officer or designee shall sell a live animal to a research facility for use in research, tests or experiments unless the owner requests in writing that his animal be sold for such purposes. (2010 Code)

4‑3‑16: DISPOSITION OF SICK OR INJURED ANIMALS:

Any animal control officer or designee who finds a sick or injured animal not upon the property of its owner or custodian, where the owner is either unknown or cannot be found after reasonable attempt to do so, may take the animal to the animal control center or veterinary hospital where treatment by a licensed veterinarian may be arranged. Upon determination by an animal control officer, designee, or veterinarian that such affliction referred to in this section is untreatable, such animal may be disposed of by such animal control officer, designee or veterinarian. The owner or custodian shall pay for any medical expenses incurred in accordance with this section. (2010 Code)

4‑3‑17: REMOVAL OF ANIMAL CARCASSES:

When any animal owned by or in the custodial care of any person dies in the city, such person shall, within twenty four (24) hours, provide for the burial, incineration or other disposition of the body of such dead animal in a safe and sanitary manner. It shall be the duty of the animal control officer to dispose of any animal found dead in the city, and for whom the owner or custodian is neither known nor can be found, by removing the animal to the county animal control center for burial or incineration. (2010 Code)

4‑3‑18: TREATMENT OF FOWL OR RABBITS:

No person shall dye, color or otherwise artificially treat in any such manner any rabbit, baby chick, duckling or other fowl. No person shall sell, offer for sale, barter or give away baby chicks, ducklings, other fowl, or rabbits under three (3) weeks of age as pets, toys, premium or novelties. No person shall transport such animals as specified in this section into the city for the purposes specified in this section. Research facilities shall be excluded from compliance with this section. (2010 Code)

4‑3‑19: USE OF ANIMALS TO ATTRACT TRADE:

No person shall give away or sell any animal for the purpose of attracting trade, whereby an animal is offered as a prize or an incentive for entering any contest, game or other competition or as an incentive for entering into any business transaction, the primary subject of which was not an animal. (2010 Code)

4‑3‑20: SALE OF TURTLES:

No person shall offer for sale, barter or give away turtles unless accompanied by a certificate that the turtle or turtles are salmonella free. (2010 Code)

4‑3‑21: INTERFERENCE WITH ANIMAL CONTROL OFFICER:

It is unlawful for any person to hinder any animal control officer or designee who may be engaged in seizing, keeping or removing any animal in conformity with the provisions of this chapter. (2010 Code)

4‑3‑22: VIOLATIONS; PENALTIES:

Any person violating any of the provisions of this chapter unless otherwise provided shall be deemed guilty of a misdemeanor and subject to penalty as provided in subsection 1‑4‑1A of this code. (2010 Code)

4-3-23: SEVERABILITY CLAUSE:

Should any Section or provision of this Ordinance be declared in a Court of law to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared.

4-3-24: REPEALER CLAUSE:

All Ordinances or parts thereof in conflict herewith are hereby repealed.

4-3-25: EFFECTIVE DATE:

This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASSED AND APPROVED by the City Council and Mayor of the City of Downey, Idaho, this 10th day of March, 2020.

City of Downey, Idaho

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By: Mayor

ATTEST:

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City Clerk

**DOWNEY ORDINANCE NO. \_\_\_\_\_\_\_\_\_\_\_**

**AMENDMENT TO ORDINANCE NO. 4-3A-1 THROUGH 4-3A-6**

**AN ORDINANCE AMENDING PARTS OF ORDINANCE NO. 4-3A FOUND IN SECTION 4-3A-1 THROUGH 4-3A-6 OF THE DOWNEY CITY ORDINANCES AND PROVIDING AS FOLLOWS:**

**MODIFYING THE PERMIT REQUIREMENTS FOR THE KEEPING OF LIVESTOCK INCLUDING THE MINIMUM AREA REQUIRED TO KEEP LIVESTOCK, RESTRICTING THE NUMBERS OF CERTAIN ANIMALS AND FOWL; PROVIDING FOR A TEMPORARY PERMIT FOR GRAZING PURPOSES; CONDITIONS FOR KEEPING LIVESTOCK WITHIN THE CITY LIMITS; LIMITATIONS ON EXISTING USES, ALLOWING SWINE TO BE KEPT DURING THE BANNOCK COUNTY FAIR; CHANGES IN PENALTIES FOR VIOLATIONS; REQUIRING A COMPLAINT TO BE SIGNED BY COMPLAINANT WITH DETAILS OF PROHIBITING CONDUCT PROVIDED BY CLAIMANT; EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE; REPEALER CLAUS; AND PUBLICATION ACCORDING TO LAW.**

Be it ordained by the Mayor and City Council with the City of Downey, Idaho:

That Sections 4-3A-1 through 4-3A-6 be amended by this Ordinance Number 2020-02 repealing portions of said Ordinance and adopting the ordinance to read as follows:

AMENDED LIVESTOCK ORDINANCE

CHAPTER 3

ANIMAL CONTROL

ARTICLE A.  LIVESTOCK

SECTION:

4‑3A‑1: Keeping Livestock

4‑3A‑2: Permit Requirements

4‑3A‑3: Existing Uses

4‑3A‑4: Swine Prohibited

4‑3A‑5: Running At Large Prohibited

4‑3A‑6: Violations; Penalties

4-3A-7: Severability Clause

4-3A-8: Repealer Clause

4-3A-9: Effective Date

4‑3A‑1: KEEPING LIVESTOCK:

It is hereby deemed unlawful to keep livestock within the city limits except as hereinafter provided. (2010 Code)

4‑3A‑2: PERMIT REQUIREMENTS:

A permit for the keeping of livestock is required and shall be issued to a residents of the city if he or she complies with the following regulations and conditions and submits a written application for such permit:

1. An Application for a permit shall not be considered by the City Council unless all of the immediately adjacent property owners to the property of the applicant sign the application indicating they approve of the application.
2. Permission of nearby Property Owners: That permission of seventy-five percent (75%) of neighbors within a four hundred foot (400) radius of the place where the animals are to be kept is obtained by the applicant and written confirmation of the permission is presented to the city council. The city council will then decide whether to issue a permit.

1. The minimum area livestock are required to have is one-half (1/2) acre per large animal over 200 lbs., such as a Horse or Cow. Small animals are required to have one-half (1/2) acre per two animals; such as 2 sheep or 2 goats.

2. No more than 10 fowl will be allowed per residence.

3. No Roosters, male goats, bulls or stud horses will be allowed.

4. Temporary Permit upon written application by a property owner within the City Council may issue a temporary grazing permit to allow livestock to graze within the City limits for a period of time set by the Council but not to exceed six (6) months. The member of livestock to be allowed shall be determined by the City Council. The applicant shall set forth in his or her application the reasons why he or she believes the temporary permit should be granted.

5. An approved livestock permit (not a temporary permit) shall not have to be resubmitted annually, but the City Council may review such permit annually to determine if the permit should be terminated for lack of use and if complaints by neighbors justify a hearing to revoke such permit.

B. Council Approval: That the city council review each livestock permit to keep livestock within the city limits, and either approve or reject each application's on its merits base on the following conditions: (1) Comments made by nearby property owners; (2) Sanitary conditions where animals are kept; (3) Ability of the applicant to control flies, odor, waste, noise or any other nuisance associated with the animals; (4) Effect on adjacent property use and values.

C. Annual Council Review: The city council shall conduct an annual review of the livestock permits to monitor the number and kinds of livestock that are kept within the city limits and according to the permit application. (2010 Code)

4‑3A‑3: EXISTING USES:

Any person who heretofore has kept livestock within the city limits shall have the right to continue to do so; provided, however, that should any such landowner or city resident fail to exercise his rights to keep such animals for a period of six (6) months or more, such existing use shall be deemed forfeited and future harboring of livestock shall require the permit as set forth herein. Provided further, however, that for those types of livestock which traditionally are seasonally pastured at places other than within the city limits, such six (6) month time limitation shall be tolled during the period when said livestock are being pastured seasonally elsewhere. (2010 Code)

4‑3A‑4: SWINE PROHIBITED:

No person may keep swine within the limits of the city, (2010 Code) except at the Bannock County Fair during the annual fair.

4‑3A‑5: RUNNING AT LARGE PROHIBITED:

It shall be unlawful for the owner of any livestock to allow the same to run at large. Any livestock shall be kept on the owner's property by means of an adequate fence to hold the livestock on said owner's premises or by means of a cord, chain, or rope of such length to restrict the livestock to the owner's property. The provisions as to fencing contained herein shall apply to fowl which traditionally are not and cannot be collared and leashed. (2010 Code)

4‑3A‑6: VIOLATIONS; PENALTIES:

1. Any person, firm or corporation violating any of the provisions of this article shall be deemed guilty of an infraction and, upon conviction thereof, shall be subject to the following penalties and fines:

1st offense - $40.00 but will be reduced to a warning only if corrected within 10 days.

2nd offence - $80.00

3rd offence - $160.00

4th offence within one year shall be considered a misdemeanor punishable by a $300.00 fine, or one month in jail, or both. Each and every day the violation persists shall be considered a separate violation of this ordinance.

Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (2010 Code)

1. Any person submitting a complaint to the City requesting enforcement of this Chapter 3 must give a written statement describing alleged violation(s) of this Chapter signed by the Complainant identifying the owner of the animal and providing sufficient details of the conduct of the animal and its owner(s) to satisfy the City or its enforcement officer that a violation of this Chapter has occurred. The Complainant must also indicate he or she will be willing to act as a witness, if necessary, in the prosecution of the owner of the animal who has violated this Chapter.

4-3A-7: SEVERABILITY CLAUSE:

Should any Section or provision of this Ordinance be declared in a Court of law to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared.

4-3A-8: REPEALER CLAUSE:

All Ordinances or parts thereof in conflict herewith are hereby repealed.

4-3A-9: EFFECTIVE DATE:

This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASSED AND APPROVED by the City Council and Mayor of the City of Downey, Idaho, this 10th day of March, 2020.

City of Downey, Idaho

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By: Mayor

ATTEST:

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City Clerk

In the Animal Control Ordinance, Bonnie Hill asked about 4-3-3(H)(3) wherein it limits the fee to only increase by $5.00 if it is unpaid. Bonnie feels the $5.00 limit should be removed so we are not limiting ourselves as to how much the fine may be increased if unpaid.

Bonnie also mentioned in the Non-Commercial Kennel Licensing penalties, commercial was added in instead of pulling the section and adding it to the Commercial Kennel Licensing section. She would like to see it cleaned up.

Bonnie’s last comment was the difference of fees vs. fines.

The Clerk reported if any changes are made to the Ordinance by the Council, the Ordinance will need to be updated and approved at a different meeting. This is the Association of Idaho Cities recommendation. The Council agreed the Ordinance was ready for approval.

**Bonnie Hill moved to suspend reading the proposed Ordinance on three different days and to have the Titles of the proposed Ordinances read once, seconded by Gary Barnes, by roll call vote: Gary Barnes, aye; Dan Wilson, aye; Bonnie Hill, aye; and Grant Johnson, aye; motion carried.**

Dan Wilson read the Title of the Animal Control Ordinance:

“AN ORDINANCE AMENDING ORDINANCE NO. 4-3-1 through 4-3-22 PROVIDING FOR:

CHANGES IN DEFINITIONAL TERMS AND THE ADDITION OF A DEFINITION OF THE TERM “DESIGNEE”; EXCLUSION OF THE PITBULL BREED OF DOG FROM THE CITY; DETERMINATION OF NUMBER OF DOGS ALLOWED BY A SINGLE RESIDENCE OR COMMERCIAL KENNEL OR NON-COMMERCIAL KENNEL AND REQUIREMENTS FOR LICENSING OF COMMERCIAL AND NON-COMMERCIAL KENNELS; CHANGES IN THE CONTROL AND TERMINATION OF ANIMALS SUSPECTED OF RABIES; DEFINITIONAL TERMS FOR CRUELTY TO ANIMALS; CHANGES IN PENALTY FOR ANIMALS RUNNING AT LARGE; REMOVAL OF SOME TERMS REGARDING THE TYPE OF ANIMALS BEING ALLOWED IN PUBLIC BUILDINGS; REMOVAL OF SPECIFIC DESIGNATION FOR LIVESTOCK CROSSING PUBLIC WAYS; SUBSTITUTION OF “ANIMALS” IN LIEU OF “DOGS”; ALLOWING FOR ANIMAL CONTROL OFFICER OR CITY APPOINTED DESIGNEE TO ENFORCE ORDINANCE; REPEALING CONFLICTING ORDINANCES AND PROVIDING AN EFFECTIVE DATE.”

Bonnie Hill read the Title of the Livestock Ordinance:

“AN ORDINANCE AMENDING PARTS OF ORDINANCE NO. 4-3A FOUND IN SECTION 4-3A-1 THROUGH 4-3A-6 OF THE DOWNEY CITY ORDINANCES AND PROVIDING AS FOLLOWS:

MODIFYING THE PERMIT REQUIREMENTS FOR THE KEEPING OF LIVESTOCK INCLUDING THE MINIMUM AREA REQUIRED TO KEEP LIVESTOCK, RESTRICTING THE NUMBERS OF CERTAIN ANIMALS AND FOWL; PROVIDING FOR A TEMPORARY PERMIT FOR GRAZING PURPOSES; CONDITIONS FOR KEEPING LIVESTOCK WITHIN THE CITY LIMITS; LIMITATIONS ON EXISTING USES, ALLOWING SWINE TO BE KEPT DURING THE BANNOCK COUNTY FAIR; CHANGES IN PENALTIES FOR VIOLATIONS; REQUIRING A COMPLAINT TO BE SIGNED BY COMPLAINANT WITH DETAILS OF PROHIBITING CONDUCT PROVIDED BY CLAIMANT; EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE; REPEALER CLAUS; AND PUBLICATION ACCORDING TO LAW.”

**Grant Johnson moved to approve the Animal Control Ordinance and the Livestock Ordinance, seconded by Dan Wilson, by roll call vote: Gary Barnes, aye; Dan Wilson, aye; Bonnie Hill, aye; and Grant Johnson, aye; motion carried.**

The Animal Control Ordinance will be Ordinance No. 2020-01 and the Livestock Ordinance will be Ordinance No. 2020-02.

**COMMENTS FROM THE AUDIENCE ON AGENDA ITEMS ONLY:** No comments.

**REPORTS**

**Tony Hancock:** Tony reported on the following items.

* Tony has about 103 gpm of spring water coming to town and about 150 gpm turned out up Nine Mile. He had to turn down a little more coming into town to keep up with the demand.
* All the road chips have been received.
* Tony and Matt are still hauling gravel.
* They have a lot of spring work coming up.

Mayor Nielsen reported Mary Hadley complained about people speeding by her home and asked if Tony can put the speed limit sign in the area to remind people to slow down. Tony agreed to put the speed limit sign in the area.

**Brenda Kay:** Brenda reported under General Penalty for Infractions in our

Ordinances, it states,” When the offense is designated as an infraction by any section or provision of this code or by state law, it is punishable only by a penalty not exceeding one hundred dollars ($100.00) and no incarceration may be imposed.” With the changes to the ordinance approved, this needs to be changed. She will contact the Attorney about the change. Bonnie suggested looking at the entire chapter of the ordinance.

When Bryce Hollingshead was looking at our computers and programs and having them secured in DOS, he was concerned about the budget program because it is a DOS program. He contacted our software company and they can do a trial run where we can try the budget software out. American Business Software sent a quote for $635 for a budget program. Brenda is unsure if she has the numbers completely accurate. This would include Fund Accounting, Accounts Receivable, Accounts Payable, Payroll, Budget, and Bank Reconcile. There is also a monthly charge for updates that is around $39. She asked if the Council would like her to look into it. It is nice to stay with the same company as our utility billing software, they integrate. This also includes two hours of support.

Angela Chilcutt contacted the City about the property again and wants to be on the Agenda next month. The sewer connection will not work where they want to locate their home on their property. Brenda asked if it would work if the location of the home was moved, but Angela does not feel they should have to change the location of her home. Tony feels it should work if they put it in the right location, but there are some locations where it would not work. The Chilcutt’s had a surveyor come and take some elevations. He did not have the report put together at this time. Bonnie asked to see the information as soon as possible. Angela was asked to provide the information as soon as she has it. The City will also ask Chilcutt’s to mark the location of the home on the property with stakes or paint.

**Gary Barnes:** Gary thanked the staff for their good work. He also thanked each of the

council members for all they do. He thanked the group here tonight and Mel and Margie Hansen for helping with the tree committee. He thanked the Huber’s for their contribution to the Arbor Day contest.

**Bonnie Hill:** Bonnie thanked the staff for all they do. She thanked the community

members for coming.

Bonnie asked about transferring money from the Downey Economic Development funds. ~~This will need to be put on the Agenda for approval.~~

Amended in the Minutes of

April 14, 2020

Bonnie tried the stove in the Community Center and although it is very old, it is in decent condition and works. She feels we are okay to use it. She suggested seeing how many people use the stove and then determine if we need to replace it. All six burners and the griddle work.

Mayor Nielsen mentioned Kay Taloney spent four hours cleaning the stove. Bonnie suggested it should be cleaned at least once every quarter.

Bonnie asked about email accounts through the City. Brenda reported the GoDaddy accounts would be $1.99 per email account for the council. Bonnie would like to see these set up.

She is working with Bannock County and the State of Idaho for a Flood Map

Amendment. They will start sending information and she would like it to come through a City email account.

As part of the Arbor Day Celebration, there will be cleanup day Downey on

May 20th, for the Elementary School if anyone would like to help. They will also be planting a tree.

The City’s cleanup day is on May 23rd. Bonnie would like to have anyone who needs help know that there will be help available to them. She is willing to help.

Bonnie asked if the City has a Comprehensive Plan. Brenda reported we have a Comprehensive Plan that was done around 2000. Bonnie would like to get a copy of the Plan.

**Daniel Wilson:** Dan asked about the Demolition Permit in the council packet. Mayor

Nielsen reported a letter was sent out to Lothrop’s about cleaning up the property. They will need to come and get the Demolition Permit. Dan talked to Charlie Sorensen about the fire district burning the house down. If he were a neighbor, he would not want to smell the smoke again. In order to burn the home, everything would need to be stripped from the house. DEQ must be involved, and Charlie basically said they do not want to burn it down.

Dan thanked the audience for their input, the Hansen’s for their help on the tree committee, and the Huber’s for their donation. He also thanked the employees.

Mayor Nielsen talked to Sally Lothrop and it sounds like she will be the one taking care of Wadsworth Lothrop’s property where the house burned down. He also asked her to get rid of all the vehicles on the property.

**Grant Johnson:** Grant apologized for being late.

**Mayor Nielsen:** Mayor Nielsen reported the logo contest has been extended until

April 1.

The display case we gave to the Legion is not to going work because it does not fit in the building. Mayor Nielsen suggested donating it to the Bannock County Fair. Bonnie will let the Fair Board know.

Bonnie is checking to see what we need to do about getting the parking lot back from the Senior Center.

He thanked everyone for coming. He thanked the Council and the staff for all they do.

**ACTION ITEM – EXECUTIVE SESSION – IDAHO CODE SECTION 67-2345(1)(a):** The Executive Session will be held next month, as the wrong section

of the Code was listed.

**ACTION ITEM – ADJOURNMENT: Dan Wilson moved to adjourn, seconded by**

**Bonnie Hill, all voted aye, motion carried.**

**APPROVED\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Rex Nielsen, Mayor**

**Attest\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Brenda Kay, Clerk**