

## MINUTES OF THE REGULAR COUNCIL MEETING

October 11, 2017

The meeting was called to order by Mayor Mac Pooler.

A roll call of the Council resulted as follows:

Sid Armstrong  
Ron Mercado  
Terry Douglas  
Joan Head  
Dennis Norris  
Ron Delcamp

Officers present were:

Mayor Mac Pooler  
Building Official Mark Magnus  
Planning Consultant Collin Coles  
Chief of Police David Wuolle  
City Clerk /Treasurer Nila Jurkovich

Councilmember Delcamp led the Pledge of Allegiance.

### ORAL COMMUNICATIONS

Kellogg High School Superintendent Mr. Woodford approached the Council to provide information on the upcoming school levy. Mr. Woodford stated that this was not a new levy, and is a replacement levy for the 2016 levy which expires June 30, 2018, in the amount of \$5,360,000. If the replacement levy passes at the November 7<sup>th</sup> election, it will begin on July 1, 2018 and run for two years. The funds that are received are one third of everything you see at the school.

### STAFF REPORTS

#### Building Official Mark Magnus

The Firewise Project should be finalized by November 20<sup>th</sup>. Councilmember Mercado asked if the piles of wood that will be burnt will be burnt to 100%, as it is an eyesore.

#### Planning Consultant Collin Coles

The Subdivision Ordinance is in its final draft and is out for review. Copies are available. The Land Use regulations are in the attorney's hands and should be done soon. A public hearing will be before the Planning and Zoning Commission in November and before the City Council in December.

#### Superintendent of Public Works Craig Lewis

Weather is calling for rain. There is asphalt going down on Cameron Avenue. The construction company will place the regrinds and then top with oil, as it will hold together better.

### CONSENT CALENDAR

1. Approval or correction of the minutes of the September 13, 2017 regular council meeting.
2. Approval of payment of the bills for the month of September 2017 as presented. (Proving documents on file in the City Clerk's office)
3. Treasurer's Reports of Income & Expenditure, Treasurers Report will be posted on the City's website.
4. P&Z Commission minutes from the September 18, 2017 meeting.  
Recommendations: a) Allow Mr. Coles to work on condensing the Landscaping Section in the upcoming amendment to the Land Use Ordinance.  
b) Allow Mr. Coles to work on replacing the current Institutional Controls Program section in the Land Use Ordinance by replacing it with a more

condensed version and place it under Chapter 11 "Miscellaneous Provisions" in the upcoming amendment to the Land Use Ordinance.

5. Reports of Commissions and Committees: None.

It was moved by Councilmember Douglas and seconded by Councilmember Delcamp to approve the Consent Calendar. Motion carried.

**OLD BUSINESS**

**EPA Road Remediation Projects & Sewer Projects Update-- TerraGraphics**

Phase 2: Knife River will be paving Cameron Avenue this week, if weather permits.

Phase 3: Big Sky will pave after Cameron Avenue is finished. Then Big Sky will jump over the McKinley Ave. bank down towards Rails to Trails.

Council President Douglas advised the Council that the first sewer bond payment will be due December 1<sup>st</sup>, and our new budget reflects that payment. Douglas reminded the Council the City was able to lock in at 1 3/8% instead of the 2 5/8% which is saving the citizens approximately \$23,000 per year in the payment amount for the sewer bond.

**NEW BUSINESS**

It was moved by Councilmember Delcamp and seconded by Councilmember Douglas to have the proposed ordinance read by title only. Motion carried.

The Clerk/Treasurer then read the title of proposed Ordinance #591.

ORDINANCE NO. 591

AN ORDINANCE OF THE CITY OF KELLOGG, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, REPEALING KELLOGG CITY CODE TITLE 6, POLICE REGULATIONS, CHAPTER 4, DOGS, AND CREATING A NEW CHAPTER 4 OF TITLE 6 ENTITLED ANIMALS; PROVIDING FOR DEFINITIONS; PROVIDING FOR PENALTIES; PROVIDING FOR THE REGULATION OF ANIMALS; PROVIDING FOR SEVERABILITY; PROVIDING REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and City Council of the City of Kellogg, Shoshone County, Idaho, as follows:

**Section 1.** Kellogg City Code Chapter 4 of Title 6 is hereby repealed in its entirety and replaced with a new Chapter 4 as follows:

**Chapter 4: ANIMALS**

**6-4-1: AUTHORIZATION:** This title is enacted pursuant to the general police power and the authority granted to cities by Article 12, Section 2 of the Idaho Constitution and Idaho Code Section 50-319.

**6-4-2: PURPOSE AND INTENT:** The purpose of this title is to promote the public health, safety and the general welfare of the residents of the City and to foster the humane treatment of animals by regulating the care and control of animals within the City.

**6-4-3: DEFINITIONS:** When used in this title, the following words, terms, and phrases, and their derivations shall have the meanings ascribed to them in this section, except where the context clearly indicates a difference meaning:

**ADMINISTRATIVE PERMIT:** A permit issued by the City Building Official allowing a resident to exceed the usual limitations on the types, or number of animals that can be housed on property within the City based on criteria described in City Code 6-4-14.

**ANIMAL:** Any live creature, either domestic or wild, except humans or plants. Animal includes fowl and reptiles, but shall exclude fish.

**ANIMAL HOSPITAL:** Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of animal diseases and injuries.

**ANIMAL NUISANCE:** Any nuisance arising out of the keeping, maintaining or owning of, or failure to exercise sufficient control of, an animal or animals.

**ANIMAL SAFETY OFFICER:** Any employee or agent of the City, designated by the Chief of Police to administer and enforce the licensing, inspection and compliance requirements established by this title.

**ANIMAL SHELTER:** : Any facility operated for the temporary care, confinement and detention of animals and for the humane euthanizing and other disposition of animals or any facility authorized by the chief of police or his/her designee to impound, confine, detain, care for or destroy any animal.

**AT LARGE ANIMAL:** An animal, excluding cats, that is off the premises of its owner, or if on the premises of its owner or of another, with permission, is not on a leash or otherwise suitably contained within a fenced enclosure such that it is under the immediate control of a person physically capable of restraining the animal.

**CRUELTY:** Any act or omission whereby unjustifiable physical pain, suffering or death of an animal is caused or permitted, including failure to provide proper drink, air, space, shelter or protection from the elements, a sanitary and safe living environment, veterinary care or nutritious food in a sufficient quantity. In the case of activities where physical pain is necessarily caused, such as medical and scientific research, food processing, customary and normal veterinary and agricultural husbandry practices, pest elimination, and animal training and hunting, "cruelty" shall mean a failure to employ the most humane method reasonably available.

**DISPOSITION:** Adoption, quarantine, voluntary or involuntary custodianship or placement, or euthanasia humanely administered to an animal. "Disposition" includes placement or sale of an animal to the general public.

**DOMESTIC ANIMAL:** Includes dogs, cats, nonpoisonous snakes less than three feet (3') in length, pigeons, ducks, geese, turkeys, chickens, confined domestic hares and rabbits, pheasants, guinea pig, hamster, gerbil, frog, ferret, mouse, rat, and other birds and animals raised and/or maintained in confinement.

**EXOTIC ANIMAL:** Any live monkey, alligator, crocodile, cayman, raccoon, skunk, fox, bear, sea mammal, poisonous snake, nonpoisonous snakes more than three feet (3') in length, members of the feline species other than domestic cat (*Felis domesticus*), members of the canine species other than domestic dog (*Canis familiaris*) or any other animal that by virtue of strength or inherent temperament or disposition would require a standard of care and control greater than that required for domestic animals.

**GUARD OR ATTACK DOG:** A dog trained to attack on command or to protect persons or property.

**HOUSEHOLD PET:** Any animal or bird, which normally lives in or is kept in a residence.

**IMPOUNDMENT:** The taking into custody of an animal by any police officer, animal safety officer, or any authorized representative thereof.

**KENNEL:** Any premises wherein any person engages in the business of boarding, caring for, breeding, buying, selling, letting for hire, or training for a fee of more than seven (7) domestic animals (household pets), excluding those less than six (6) months of age.

**MUZZLE:** A device constructed of strong material designed to fasten over the mouth of an animal to prevent the animal from barking or biting.

**OWNER:** Any person having temporary or permanent custody of, sheltering or having charge of, harboring, exercising control over, or having property rights to, any animal covered by this title. An animal shall be deemed to be harbored if it is fed or sheltered by any person or if the person purported to be harboring claims to have custody or responsibility for the care of any animal.

**POTBELLED PIG:** A Vietnamese or Chinese potbellied pig kept for the sole purpose of providing human companionship.

**SANITARY:** A condition of good order and cleanliness to minimize the possibility of disease transmission and not producing adverse health or sensory conditions for adjoining property owners.

**SERVICE ANIMAL:** Any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Under some circumstances miniature horses that have met the current ADA provisions may be included as service animals.

**UNDER RESTRAINT:** An animal is secured by a leash or lead under the control of a person physically capable of restraining the animal, or securely enclosed within the real property limits of the owner's premises.

**VICIOUS OR DANGEROUS ANIMAL:** Any dog that attacks, bites, or physically injures human beings, domestic animals or livestock without adequate provocation, or which, because of temperament or training, has a known propensity to attack, bite, or physically injure human beings, domestic animals or livestock. Such incidents will be handled in the manner outlined in Idaho State Code 25-2810. Any wild animal or any animal that without adequate provocation has bitten or attacked a human being or other animal shall be prima facie presumed vicious or dangerous.

**WILD ANIMAL:** Any live, nonhuman primate, leopard, panther, tiger, lion, lynx or any other warm-blooded animal that can normally be found in the wild state. The term "wild animal" does not include: domestic dogs (excluding hybrids with wolves, coyotes or jackals), domestic cats (excluding hybrids with ocelots or margays), farm animals, rodents, and captive bred species of common cage birds.

**6-4-4: ENFORCEMENT; INTERFERENCE PROHIBITED; AUTHORITY GRANTED:**

Animal safety officers and police officers of the City shall be the enforcement officials for this title. These officials shall have the authority to act on behalf of the City in investigating complaints, impounding and destroying animals, issuing citations, and taking other lawful actions as required to enforce the provisions of this title. It shall be a violation of this title to interfere with an animal safety officer or other enforcement official in the performance of his/her duties. Animal safety officers are hereby authorized to take such actions as they deem appropriate to protect the health, safety and welfare of the public, whether expressly authorized by this section, or not.

**6-4-5: UNLAWFUL ACTS:**

- A. It shall be unlawful for any person to keep any animal on any property located within the corporate limits of the City when the keeping of such animal, or the manner thereof, violates the provisions of this title, or when the owner neglects a duty established by this title or carries out conduct which this title labels as unlawful, or engages in activities, actions or behavior which violates a rule of conduct or requirement of this title or which creates a menace to public health or safety so as to create a nuisance to neighboring property owners or the public at large.
- B. Behavior and/or conditions which violate this title shall include, but not be limited to, the following:
  - 1. Any animal that unreasonably annoys humans, endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than its owner, to enjoyment of life or property;
  - 2. Any animal other than domestic cats found running at large;
  - 3. Any animal that makes disturbing or grunting noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances which cause annoyance, disturbance, or discomfort to reasonable neighbors or reasonable others in close proximity to the premises where the animal is kept or harbored;

4. Any animal, or owner thereof, that causes fouling of the air by noxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored inclusive of conduct which neglects to maintain, clean or otherwise eliminate the waste which results from the containment of an animal;
5. Any animal in heat (estrus) that is not confined so as to prevent attraction or contact with other animals;
6. Any animal, whether or not on the property of its owner, that without provocation, molests, attacks, bites, menaces or otherwise interferes with the freedom or movement of persons in a public right of way;
7. Any animal that chases motor vehicles on a public right of way;
8. Any animal that attacks domestic animals;
9. Any owner or caretaker of animals who causes or allows conditions offensive or dangerous to the public health, safety or welfare by virtue of the number of animals maintained at a single residence or premises or because of the inadequacy of the facilities.

**6-4-6: KEEPING OF WILD OR EXOTIC ANIMALS:** It shall be unlawful for anyone to own, harbor, or permit at large any wild or exotic animal without the express written authorization of the Kellogg City Council. Such authorization may be given only if it is demonstrated to the satisfaction of the Council that the animal will not constitute a threat to public health or safety. The City Council may conduct a public hearing to obtain the opinions of adjoining residents and property owners when considering such requests. The City Council may charge an applicant for such authorization an appropriate fee to recover the authorization processing costs incurred by the city. Public educational institutions shall be exempt from the foregoing authorization requirement.

**6-4-7: KEEPING OF DOMESTIC ANIMALS:**

- A. It shall be unlawful for any household to own, harbor, or possess more domestic animals or types of animals other than authorized by this section or in accordance with limitations and licensing requirements established by this title, except that service animals may be allowed as required by law.
  1. Dogs and cats, not exceeding the number limitations as set forth in section 6-4-8 of this chapter.
  2. For the sole purpose of a family pet or for educational purposes at an educational institution, rabbits, guinea pigs, hamsters, gerbils, frogs, ferrets, mice, rats, snakes and/or birds (except fowl, pigeons, chickens, ducks, geese, turkeys) can be kept, so long as the number limitations as set forth in section 6-4-8 of this chapter are not exceeded. It shall be the duty of all persons owning or harboring such animals to keep and maintain such animals in a clean and sanitary condition.
  3. The following animals: Pygmy/miniature goats, lambs, alpaca, potbellied pigs, American Mini Pigs, or rabbits may be kept on properties containing a minimum of one-tenth (1/10<sup>th</sup>) acre of securely fenced, irrigated open space, exclusive of a home site, and maintained in compliance with this title. Said fenced area shall be irrigated during the growing season to sustain vegetation.
  4. Chickens are permitted on any detached single-family lot in the city. Each property is permitted a maximum of ten (10) hens. Roosters are prohibited within the city limits. Coops and feed shall be secured to prevent problems with mice and other pests. Coops, hutches or similar containment structures must be kept at least thirty feet (30') from the front property line, five feet (5') from the side and rear property lines where the chickens are being kept, at least fifteen feet (15') from the on site residence and at least twenty five feet (25') from any neighboring residences. Additionally, the coop shall not be attached to a shared fence. All other requirements of Title 11, "Zoning," of the city code regarding setbacks and restrictions shall also apply.

- B. It shall be the duty of all persons owning or harboring such animals to keep them in secure confinement to prevent them from roaming onto adjacent lands and to maintain such animals, and the grounds upon, and facilities within, which they are housed, in a clean and sanitary condition. Additionally, all persons owning and harboring animals shall follow industry best management practices in raising and caring for their animals.
- C. Animal owners are also required to comply with all requirements regarding sanitation, nuisance and fencing/wall height as set forth in Title 11 of the city code.

**6-4-8: LIMITS ON NUMBERS OF ANIMALS ON RESIDENTIAL PREMISES:**

- A. It shall be unlawful for any household or educational institution to keep more than three (3) dogs and more than a total of seven (7) permitted animals (not including the 10 chickens permitted) unless otherwise specified in this chapter, except that a litter of pups, kittens or other young animals may be kept for a period of time not exceeding six (6) months from birth. The restrictions of this subsection shall not apply to any properly authorized commercial establishment where such animals are legally kept for breeding, sale, sporting purposes, or boarding.
- B. Kennels shall be permitted under the following conditions:
  - 1. All applications for licenses to operate or maintain a kennel shall be submitted, in writing, upon printed forms provided for such purposes by the City Clerk. The application shall first be referred to the Police Chief. The Police Chief or his designee, shall make an inspection of the premises where such kennel is to be maintained and operated and shall make recommendations to the City Council for the granting or denying of such license.
  - 2. A license shall not be transferable, and shall expire on December 31 of each year. It shall not be necessary to license individual animals, but the owner of such kennel shall pay an annual license fee; provided, however, that all animals covered by such kennel license shall be maintained and kept within the kennel or under leash at all times.
  - 3. It shall be unlawful for any person to keep, use or maintain within the city any kennel in such a manner that the same is unsanitary, nauseous, foul, offensive, noisy or from any cause an annoyance to the community, any family or person; the city council, in its discretion, may revoke any dog kennel license for any of the above reasons.
- C. In order to exceed these maximum number limits and/or have any more types/breeds of animals, the lot size must exceed one (1) acre and the individual must obtain an administrative permit per section 6-4-14 of this chapter.

**6-4-9: CARING FOR ANIMALS:**

- A. It shall be unlawful and no owner or custodian of any dog shall allow the owner/custodian's dog to soil, defile or defecate on any public property, street, sidewalk, public way, public play area or upon private property other than that which is exclusively owned by the dog owner, unless such owner or custodian immediately removes and disposes of all feces deposited by such dog by the following method:
  - 1. Collection of the feces by appropriate implement and placement in a paper or plastic bag or other container; and
  - 2. Removal of such bag or container to a waste disposal container lawfully available to the owner for sanitary disposal of waste as permitted by law.
- B. It shall be unlawful and no person owning, harboring or keeping an animal within the city shall permit any waste matter from the animal to collect and remain on the property of the owner or custodian, or on the property of others so as to cause or create an unhealthy, unsanitary, dangerous or offensive living condition on the owner's or custodian's property, or upon the abutting or nearby property of others.

- C. It shall be unlawful and no person owning, harboring, keeping or in charge of any animal shall cause or allow the existence or maintenance of unsanitary, dangerous or offensive conditions by virtue of the size or number of animals maintained at a single location or due to the inadequacy of the facilities.

**6-4-10: CRUELTY TO ANIMALS:**

- A. It shall be unlawful for any person to strike, beat, abuse, or intentionally run down with a vehicle any animal, or otherwise engage in any act to cause or inflict unnecessary pain, injury, suffering or death to such animal; except that reasonable force may be used to drive away vicious or trespassing animals.
- B. No person, except a licensed veterinarian, or animal safety officer (for humanitarian purposes) shall administer poison to any animal, or knowingly leave any poisonous or harmful substance of any kind or ground glass in any place with the intent to injure any animal. The provisions of this section are not applicable to licensed exterminators using poisons as part of a pest control program or the use of commercial insecticides and rodent baits used to control insects and/or wild rodents.

**6-4-11: RESTRAINT AND CONFINEMENT:**

- A. It shall be unlawful for the owner of any animal to fail to keep such animal under restraint or permit such animal to run at large upon the streets and public ways of the city or upon private property without consent of the owner or present occupant. It shall be prima facie evidence of a violation of this section when an animal is found by an animal safety officer or police officer while it is away from its owner (or responsible person).
- B. Any dog, while on a street, sidewalk, public way, or other public space, or upon private property without the consent of the owner, shall be secured by a leash or chain of sufficient tensile strength to restrain the particular dog and be controlled by a person of sufficient age and strength to control the animal. This shall not apply to animals prescribed by a doctor for medical reasons or other properly trained assist dog.
- C. No owner or custodian of any animal shall fail to exercise proper care and control of such animal to prevent the same from becoming a private or public nuisance.
- D. Every female dog in heat shall be confined in a building or other enclosed area in such a manner that such female dog cannot come into contact with another animal except for planned breeding.

**6-4-12: RESTRAINT OF GUARD DOGS:**

- A. Every owner of a guard or attack dog shall keep such dog confined in a building, compartment or other enclosure. Any such enclosure shall be completely surrounded by a fence at least six feet (6') in height and shall be topped with an anticleimbing device to prevent the animal from exiting the top of the enclosure.
- B. Such areas of confinement shall all have gates and entrances thereto securely closed and locked, and all fences shall be properly maintained and escape proof. Such premises shall be clearly posted to warn of the presence of guard dogs.
- C. The provisions of this section shall not apply to dogs owned or controlled by government law enforcement agencies.

**6-4-13: HARBORING OR POSSESSING POTBELLIED PIG:**

- A. No person shall possess, own, or harbor a "potbellied pig" as defined in this title unless and until obtaining a license from the chief of police for such animal in accordance with this chapter. Only one potbellied pig may be maintained or licensed at any single address or premises. Said license may be issued upon payment of the license fee established by the city council by resolution and upon proving compliance with the standards established by this code. Any such potbellied pig shall be subject to the care and control requirements established for dogs by this title.

B. Each person desiring to license a potbellied pig for keeping in the city shall obtain a certificate of health and qualification from a veterinarian and allow an inspection of the animal and premises by the chief of police as detailed below:

1. A certificate from a licensed veterinarian certifying that the animal in question is a potbellied pig, measuring no more than twenty three inches (23") in height at the shoulders when in a normal stance, weighing no more than one hundred twenty five (125) pounds and kept solely for human companionship shall be obtained and submitted to the city. Further, said veterinarian shall certify in writing that the animal in question has been inoculated against and/or been blood tested, with negative results, for pseudorabies and brucellosis, or any other disease or animal malady which the USDA or the Idaho department of agriculture deems necessary to prevent health, safety or general welfare concerns.
2. Prior to issuance of a license to possess a potbellied pig, the license applicant shall submit plans showing the size and location of the yard in which the potbellied pig will be allowed to exercise when not in the home where it lives. Said plans shall include sufficient detail to indicate that fencing materials and installation methods are sufficient to protect neighboring land uses from intrusion. No potbellied pig, nor the maintenance practices affecting care of such animal, shall be allowed to interfere with the peaceful enjoyment of adjoining land uses by reason of noise, odor or otherwise. Violation of these requirements shall be deemed a violation of the requirements of this code.
3. Any person seeking to license a potbellied pig shall allow reasonable opportunity for inspection of the animal and of the premises where it will be housed, prior to action by the Chief of Police.
4. Any person denied a license by the Chief of Police may appeal said denial by filing a written notice of appeal with the City Clerk setting forth the basis of the appeal and stating concisely why the appeal should be granted. The Mayor may investigate the appeal as appropriate, hold a hearing and render a written decision concerning the requested license denial.

**6-4-14: PERMIT; APPLICATION:**

- A. An administrative permit must be obtained from the building official in order to exceed the maximum number limits and types/breeds of animals permitted in the city as described in this Title.
1. An application for an administrative permit shall include a written description of the requested number and types of animals, lot size information, a site plan showing where and how the animals will be contained, and a description of the purpose for acquiring and keeping the requested animals. This information will allow the administrator to evaluate the proposed exception.
  2. An administrative permit may be issued by the building official if the following conditions have been met:
    - a. The lot size exceeds one (1) acre.
    - b. The administrative permit for the proposed exception to the number and type of animals permitted in the city would be consistent with the general intent of this code.
    - c. If an animal is injured or ill, or if the animal is being kept for 4-H, educational purposes, or therapy.
    - d. Granting the administrative permit has not been demonstrated to be detrimental to neighboring development.

**6-4-15: ANIMAL BITES, REPORT NOTICE:**

- A. Any person owning, possessing or harboring any animal that bites any person, any person bitten by such animal or any physician attending such, shall report the same to the animal safety officer or police officer, immediately but in no case longer than within eight (8) hours of the time of the bite or of learning of the bite, giving his/her



full name, age, and address, the circumstances surrounding the bite and the extent of the bite, the medical treatment given and the name and address of the owner or person having custody or possession of the animal. The owner of the animal in question shall release, to the animal safety officer or police officer upon request, all information about the animal needed to complete the investigation.

- B. It shall be the duty of every person having knowledge of the existence of an animal; apparently afflicted with rabies to report immediately to the animal safety officer the existence and description for such animal, the place where sent, the name of the owner or persons having custody of the animal, if known, and the symptoms suggesting rabies.

**6-4-16: DANGEROUS OR NUISANCE ANIMALS:** Any animal which has been at large in excess of two (2) times in any calendar year (except domestic cats) or which has been at large and has proven menacing or threatening when at large may be declared a nuisance or dangerous, as appropriate, by the animal safety officer. An animal may be designated as dangerous even though it has not behaved in a manner severe enough to warrant designation as a vicious animal. Upon making such a declaration, the animal safety officer may prescribe the actions which the animal owner must take to abate the nuisance or to protect the public from the menacing characteristics of an animal so designated. Such restrictions may include additional fencing, security measures, repair of containment facilities, additional supervision or other measures intended to address the nuisance or danger involved. Such designation may be applied for a certain designated time frame such that the restrictions serve as a probation for the animal or animal owner in question. Violation of any restrictions set forth in a written order of the animal safety officer pursuant to this section shall constitute a violation of this chapter, subject to all penalties and enforcement measures authorized hereby. Upon petition and demonstration of compliance with applicable requirements, the animal safety officer may revise the designation of a vicious animal to nuisance or dangerous status if the animal safety officer believes that such designation will fulfill the purposes of this chapter. Any decision concerning classification of an animal as a nuisance or dangerous may be appealed by the animal owner in accord with the procedures established in this chapter regarding vicious animals.

**6-4-17: SUBSEQUENT ATTACK:** Should any animal attack or bite a person or another animal, after the owner or harbinger of such animal has been notified that the animal has been declared vicious, dangerous or nuisance, such animal shall be impounded, held for observation and shall not be returned to its owner until the animal safety officer can be assured that the insecurity which allowed the animal to go free has been remedied and will remain so. If any declared vicious animal is found at large and cannot be safely taken up and impounded, such animal may be summarily destroyed by any police officer or animal safety officer. Failure to maintain security for vicious, dangerous or nuisance animals shall constitute a violation of this chapter.

**6-4-18: IMPOUNDMENT:**

- A. In addition to any other remedies provided in this chapter, an animal safety officer or a police officer may seize, impound and humanely confine to an animal shelter or hospital any of the following animals:
1. Any dog without a valid license tag;
  2. Any animal at large;
  3. Any animal constituting a public nuisance or considered a danger to the public;
  4. Any animal that is in violation of any quarantine or confinement order of the Panhandle Health District, a Kellogg animal safety officer or any standing quarantine or confinement order of any public officer;
  5. Any unattended animal that is ill, injured or otherwise in need of care;
  6. Any animal that is reasonably believed to have been abused or neglected;
  7. Any animal that is reasonably suspected of having rabies;

8. Any animal that is charged with being potentially dangerous, or dangerous where the City Council or animal safety officer determines that there is a threat to public health and safety, including illegal exotic and wild animals.
  9. Any animal that a court of competent jurisdiction has ordered impounded or destroyed;
  10. Any animal that is considered unattended or abandoned, as in situations where the owner is deceased, has been arrested or has been evicted from his/her regular place of residence.
  11. Any animal that has been declared vicious and the owner or caretaker fails to adhere the established guidelines set forth in the vicious animal guidelines as set forth in chapter 6-4-17 of this title.
- B. An animal safety officer or police officer may also, or in lieu of impoundment of an animal running at large (other than domestic cats), issue to the owner a notice of violation which calls for payment of an animal control fee or, in the alternative, may issue an infraction citation charging the owner with a violation of this chapter. Any animal owner issued a notice of violation shall pay any animal control fee established by resolution to the city within thirty (30) days of the date the notice of violation is issued. Such fee may be paid at the location noted on the notice of violation. In the event that such fee is not paid within the time period prescribed, the animal safety officer or police officer may issue a uniform citation or refer the matter to the city prosecutor in order to initiate misdemeanor criminal proceedings for the underlying violation of this chapter. Such citation or complaint shall be punishable as a criminal misdemeanor as otherwise provided by this code.

**6-4-19: NOTICE TO OWNER AND REDEMPTION:**

- A. Upon impoundment of an animal, the animal safety officer may attempt to notify the owner by telephone or mail. If the owner is unknown or cannot be contacted, the animal safety officer shall post written notice for three (3) working days at the Kellogg City Hall, describing the animal and the time and place of taking. Any notice to the owner may also include the location of the shelter or hospital where the animal is confined, hours during which the animal can be reclaimed, and the fees to be charged to the owner. The owner may also be advised that the failure to claim the animal within three (3) working days may result in the destruction or other disposition of the animal.
- B. An owner reclaiming an impounded animal shall pay impound fees as established by resolution of the City Council. The rates charged for any subsequent impoundment may likewise be established by resolution of the city council.
- C. Any animal not reclaimed by its owner within three (3) working days shall be subject to placement for adoption in a suitable home or euthanized in a humane manner prescribed by the city.

**6-4-20: PROPERTY OWNERS MAY IMPOUND:** Any person finding an animal at large upon his/her property may remove the same to any animal shelter that will take possession of the animal. Any person doing so shall inform the shelter operator of the location where the animal was captured, type of animal, and any other information which may be relevant to locating the owner or circumstance concerning the animal. If no such shelter is available, the property owner may humanely hold the animal in his/her own possession and immediately notify the animal safety officer. The property owner shall provide a description of the animal and the name of the owner if known.

**6-4-21: RETURN OF ANIMAL TO OWNER:** If the name of the owner or custodian of an animal found at large is known or can be obtained with reasonable dispatch, the animal safety officer may attempt contact with such owner and advise the owner of the location of the animal and attempt to make arrangements to return the animal. If the animal owner is not available, the animal safety officer may provide written notice to the registered owner explaining who the owner must contact to reclaim the animal. The officer may remove the animal to the nearest shelter that will accept the animal. The ultimate responsibility for locating an impounded animal is the owner's.

**6-4-22: DISPOSITION OF LARGE ANIMALS:** Any animal safety officer or other designated person on call who removes or takes custody of a healthy large animal such as a horse, cow, mule or other animal, which is not acceptable to any animal hospital or shelter, shall be authorized to call a trucking firm or company which may convey the animal to a farm or other appropriate facility that will accept such animals. The disposition of any animal removed to a facility other than an animal hospital or shelter shall be handled in the same manner as though the animal were confined in an animal hospital or shelter. Any such expenses of shelter or care shall be the responsibility of the owner.

**6-4-23: LICENSING OF DOGS:**

- A. License Required: No person shall own, keep, or harbor any dog over the age of six (6) months within the city unless such dog is licensed as provided in this chapter.
- B. Application: Application for such license shall be made by the owner on a form to be provided by the city within ten (10) days after acquiring any dog over six (6) months of age or within ten (10) days after a dog becomes six (6) months of age; provided that any owner moving to the city for the purposes of establishing residence or becoming a resident as a result of any annexation, and otherwise required to obtain a license, shall have until thirty (30) days after establishing residence to obtain such license.
- C. Proof of Rabies Vaccination Required: All owners applying for a license must show to the satisfaction of the licensing authority that the animal for which the license is being obtained has been inoculated against rabies within the last two (2) years.
- D. Proof of Sterilization: Any owner claiming that his/her dog has been spayed or neutered must show to the satisfaction of the licensing authority that the operation has been performed.
- E. Payment of License Fee: A license fee shall be paid at the time of making application. The license fee for dogs shall be established by the city council by resolution. Such fee may be different depending upon the altered status.
- F. Exemption from License Fee: License fees shall not be required for seeing eye dogs, dogs prescribed by a doctor for medical reasons, government police dogs or dogs belonging to a nonresident of the city (which are licensed elsewhere) and kept within the boundaries of the city for not longer than thirty (30) days; provided that all dogs not subject to payment of the license fee shall at the time of entry into the city be properly vaccinated against rabies, and while kept within the city, meet all other requirements of this title. Any owner claiming any of these exemptions has the burden of proving to the satisfaction of the licensing authority that the dog in question is entitled to such exemption.
- G. Penalties: Any owner of a dog over the age of six (6) months who fails to obtain a license within the time period specified in this chapter shall be subject to a fee set by the city council by resolution and/or shall be subject to prosecution for violation of this chapter as otherwise provided herein.

**6-4-24: LICENSE TAGS; IDENTIFICATION:**

- A. Upon payment and acceptance of the license fee, the City shall issue a durable license tag, stamped with an identification number for the animal for which the license has been obtained. Any license issued for the keeping of a dog shall take effect on the date of issuance and shall be valid for the period of time paid for and shown on the receipt issued by the licensing authority. Every dog for which the owner is required to obtain a license must wear a valid license tag at all times when the animal is off the premises of its owner.
- B. No person may use a license for any animal other than the animal for which the license was issued. It shall be unlawful for any person except the licensed owner to remove from the neck of any dog the license tag issued pursuant to this section. It shall further be unlawful for any person to alter such tag in any manner.

- C. Any dog license issued in reliance of false or inaccurate information may be revoked. Anyone who knowingly submits false information to obtain a license or to obtain a license without paying the appropriate fee shall be deemed to have violated this chapter and shall be subject to all potential penalties therefor.

**6-4-25: VIOLATIONS AND PENALTIES:**

- A. It shall be a violation of this title 6 chapter 4 to:
1. Fail to comply with any provision of this title, that is, to do that which is described as unlawful or to violate the requirements established by this title;
  2. Fail to comply with any lawful order of the animal safety officer or police officer, unless such order is lawfully stayed or reversed.
- B. Any person who violates any provision of this Title 6, Chapter 4, shall be deemed guilty of an infraction and may be punished as provided in Title 1, Chapter 15 of this code. Should any person be found guilty in any court of competent jurisdiction, the court may order the animal involved to be destroyed by the animal safety officer.
- C. The city may undertake civil legal action in a court of competent jurisdiction to seek to enjoin conduct which violates the provisions of this title and/or to recover the reasonable costs of actions deemed necessary to bring about compliance herewith.
- D. Any violation of this chapter shall be punishable as follows: Any person who violates any provision of this chapter may be issued a civil citation in lieu of a uniform infraction citation and shall be assessed a civil penalty as follows:
1. First violation: Fifty dollars (\$50.00).
  2. Second violation within two (2) years of first violation: One hundred dollars (\$100.00).
  3. Third violation within two (2) years of first violation; One hundred fifty dollars (\$150.00).
  4. Fourth and subsequent violations within two (2) years of first violation: Two hundred dollars (\$200.00).

The civil citation assessment shall be payable at city hall within thirty (30) days from the date of issuance. No partial payments will be accepted as full payment. If, within the thirty (30) day period following the issuance of the city civil citation the assessment has not been paid, an infraction uniform citation or sworn complaint may be issued for the violation of this chapter or the rules, and the violator, if found guilty, will be fined in the appropriate above amount for the violation plus court costs. Nothing contained herein prohibits a law enforcement officer from issuance of a uniform infraction citation instead of a civil citation.

**Section 2. Severability.** This ordinance is hereby declared to be severable. Should any portion of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of the ordinance before the declaration of partial invalidity.

**Section 3. Repeal of Conflicting Provisions.** All provisions of the current Kellogg Municipal Code or ordinances of the City of Kellogg which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**Section 4. Effective Date.** This ordinance shall be effective upon its passage and publication as provided by law.

ENACTED by the City Council as an Ordinance of the City of Kellogg on the 11th day of October, 2017.

PASSED under suspension of the rules upon which a roll call vote was duly taken and duly enacted as an ordinance of the City of Kellogg, Idaho at a regular meeting of the City Council held on the 11th day of October, 2017, by the following vote, to wit:

COUNCILMEMBER DOUGLAS- AYE    COUNCILMEMBER DELCAMP -AYE  
COUNCILMEMBER MERCADO -AYE    COUNCILMEMBER NORRIS - AYE  
COUNCILMEMBER ARMSTRONG – AYE    COUNCILMEMBER HEAD - AYE

APPROVED by the Mayor on the 11<sup>th</sup> day of October, 2017.

CITY OF KELLOGG

By: \_\_\_\_\_  
Mac Pooler, Mayor

ATTEST:

\_\_\_\_\_  
Nila Jurkovich, City Clerk

It was moved by Councilmember Mercado and seconded by Councilmember Delcamp to pass Ordinance #591 under suspension of the rules. A roll call vote of the Council resulted as follows:

Councilmember Norris-Aye	Councilmember Head-Aye
Councilmember Douglas-Aye	Councilmember Armstrong-Aye
Councilmember Mercado-Aye	Councilmember Delcamp-Aye

Motion carried.

It was moved by Councilmember Norris and seconded by Councilmember Delcamp to publish Ordinance #591 by Summary prepared by City's Counsel.

Motion carried.

Councilmember Delcamp thanked Rod Plank and Chief Wuolle for their help with this ordinance. The language is clear, and that is what the Council had asked for.

Councilmember Norris echoed those thoughts.

Parade Permit for the Kellogg Christmas Lighting Festival Saturday, November 25th

This is the third year that the City has been sponsoring the trolley. A city employee will be driving the Mayor and Council in the trolley.

It was moved by Councilmember Delcamp and seconded by Councilmember Douglas to approve the Parade Permit submitted by the Kellogg Christmas Lighting Festival Chamber Committee for Saturday, November 25<sup>th</sup> at 4:30 P.M., and have the City sponsor the Trolley for parade. Motion carried.

**ANNOUNCEMENTS AND REPORTS**

Mayor Pooler

The Silver Valley has struggled with the recent changes that FEMA has placed on us. In a recent meeting, the City was advised that the Corps of Engineers has a \$60,000 grant that has no match requirement and will utilize those funds to work on revisiting the current FEMA flood maps. Although the \$60,000 will not finalize the project, this is a step in the right direction.

Councilmember Norris

Appreciates everyone's patience during the City's construction

Councilmember Head

Attended the library board meeting. The Library Director's request to increase her hours was tabled. The Library Board would like to review the budget. The Library Board will be following State rules. The library made \$262 during their current book sale which is down from last year. Although one of the main responsibilities of the Library Director was to apply for grants for the libraries, there has only been one that has been applied for.

COUNCILMEMBER DOUGLAS- AYE    COUNCILMEMBER DELCAMP -AYE  
COUNCILMEMBER MERCADO -AYE    COUNCILMEMBER NORRIS - AYE  
COUNCILMEMBER ARMSTRONG – AYE COUNCILMEMBER HEAD - AYE

APPROVED by the Mayor on the 11<sup>th</sup> day of October, 2017.

CITY OF KELLOGG

By: \_\_\_\_\_  
Mac Pooler, Mayor

ATTEST:

\_\_\_\_\_  
Nila Jurkovich, City Clerk

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Councilmember Norris-Aye	Councilmember Head-Aye
Councilmember Douglas-Aye	Councilmember Armstrong-Aye
Councilmember Mercado-Aye	Councilmember Delcamp-Aye

Motion carried.

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## ANNOUNCEMENTS & REPORTS

### Councilmember Armstrong

Advised the Council that he will be retiring from his work at the end of September and looks forward to having more time devoted to the City.

### Councilmember Mercado

Was sad to see such a tragic fire and hopes the property is built on. Also, with all of the work that the City is having completed throughout the City, there are still many other items that need to continue such as work on the City Hall, curbs and the parking lot. If this is going to be our building, we need to make it a City Hall.

### Councilmember Norris

The response that was received from neighboring fire districts was unbelievable. The professionalism is admirable and each deserves a pat on the back. Once the construction is over, everyone should be very proud on what has been accomplished.

### Councilmember Head

Advised the Council that she has concerns with the library staff's request to the Library Board. The request is two-fold. The first request: consider an additional hour to her daily schedule each morning before the library is open and an additional hour to her schedule in the evening after the library is closed. This request will add two additional hours in addition to her scheduled work week per each day the library is open. The second request is to add an additional hour each week for other library items. The Library Board will be approaching the City Council on this and if the request is brought to the Council, she would like to discuss her concerns in further detail.

### Councilmember Douglas

Excited for the pavement to start being laid in town, along with the continued sewer construction. The Council is going in the right direction and there will be a lot more items that will continue after the construction is finalized.

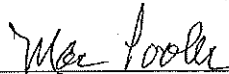
### Councilmember Delcamp

Would like to thank Nancy Mabile, Collin Coles and Mark Magnus for all the work that has been done with the ADA Transition Plan. Also, kudos to Rod Plank for all the work he has done with the Pool Grant Application.

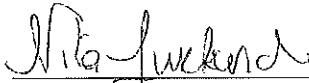
### Mayor Mac Pooler

A lot is being accomplished for a city of its size. Nancy Mabile and a lot of other people have been a big help with this process.

There being no further business to come before the Council at this time, it was adjourned at 6:42 P.M. to meet at its regular time of October 11, 2017.

  
\_\_\_\_\_  
Mac Pooler, Mayor

ATTEST:

  
\_\_\_\_\_  
Nila Jurkovich, Municipal Clerk/Treasurer