

ORDINANCE NO. 1256

CITY OF LACEY

AN ORDINANCE RELATING TO THE KEEPING CARE AND TREATMENT OF ANIMALS, REPEALING SECTION 7.04.052, AMENDING SECTIONS 7.04.020, 7.04.030, 7.04.040, 7.04.050, 7.04.060, 7.04.070 AND 7.04.080, ENACTING A NEW SECTION 7.04.052 OF THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.

WHEREAS, in 1996 Thurston county, and the cities of Olympia, Lacey and Tumwater, each adopted uniform regulations for the keeping of dogs, cats and other pet animal within their respective jurisdictions; and

WHEREAS, with the passage of time it has been determined that certain modifications are necessary to insure the proper regulation of dogs, cats and other animals within each of the participating entities' jurisdictions and to enhance penalties for repeat violations of the requirements of this ordinance; and

WHEREAS, as a result of the increase in the number of dog, cats and other animals that are brought to the facility by the public, by impounded, by citation, or picked up as stray or abandoned and due to the space limitations at the shelter; it is necessary to review the notice and reclaim or release procedures; and

WHEREAS, the amendments set forth herein have been reviewed and are proposed for adoption by the Joint Animal Services Commission; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, as follows:

Section 1: Section 7.04.020 of the Lacey Municipal code is hereby amended to read as follows:

Enforcement. The Animal Services Director, his/her designees, and other officers as defined in Section 7.04.030. ~~OU~~, are hereby authorized and delegated the responsibility for enforcement of laws set forth in this code and in RCW Chapters 16.08 and 16.52, including the issuance of misdemeanor and gross misdemeanor citations and notices of infraction.

Section 2: Section 7.04.030 of the Lacey Municipal Code is hereby amended to read as follows:

- A. "Abandon" means (1) the act of leaving a pet animal without humane care in such a way that the health or safety of the animal is imperiled or (2) failure to respond to notification of impoundment of an animal.
- B. "Animal" means any nonhuman mammal, bird, reptile, or amphibian.
- C. "Animal Services" means the agency designated to enforce this ordinance and operate a shelter facility designated or recognized by the cities of Lacey, Olympia, and Tumwater and Thurston

county for the purpose of impounding, caring for, placing through adoption, returning to owners and euthanizing pet animals.

D. “At Large” means any pet animal that is not in the physical presence and control of an owner or keeper; provided that the following animals shall be considered at large only under the following circumstances:

1. When a dog, licensed or not, is found off the property or outside the vehicle of the owner and not under control of a person by means of a leash, carrier or demonstrated voice command wherein the person purporting to exercise control of a dog can cause the dog to immediately heel by giving an appropriate voice command; or

~~2. For the purpose of this section, the dog is presumed not to be under control and to be at large if the person purporting to exercise control is unable to immediately cause the dog to heel by giving the appropriate voice command; or~~

~~23.~~ When an unleashed dog interferes with pedestrian, bicycle or vehicular movement or causes reasonable affront or alarm to a person or if injury; or damage ~~or trespass~~ has been caused by the dog, or trespass has occurred; or

~~34.~~ When a cat, licensed or not, is on property where the property owner or tenant objects to the presence of the cat and has humanely trapped or otherwise contained the cat.

~~E.~~ “Cattery” means an establishment kept for the purpose of breeding, owning, selling, or boarding of cats, and having current certification by a nationally recognized cattery registration group that formulates and applies their own standards for appropriate care, such as Cat Fanciers Association, the American Cat Fanciers Association, the International Cat Association, or the United Feline Organization.

~~E F.~~ “Dangerous Dog” means a dog that according to the records of Animal Services has committed serious offenses as more fully set forth in Section 7.04.070.

G. “Director” means the Director of Animal Services or his/her designee.

~~FH.~~ “Domestic Animal” means an animal other than a pet animal which may or may not be used as a food source such as, but not limited to a rabbit, chicken, goat, sheep, cow or horse.

~~GI.~~ “Euthanasia” means the humane killing of an animalanimal. the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death, or by a method that causes painless loss of consciousness, and death during the loss of consciousness.

~~H J.~~ “Exotic Animal” means an animal, such as, but not limited to, venomous or constrictor type reptiles or primates.

~~K.~~ “Feral” means a wild animal, or a domestic animal that is wild.

- I L. “Harbors, keeps, possesses, or maintains pet animal” means providing care, shelter, protection, refuge, food, or nourishment in such a manner as to influence the behavior of the animal; or, treating the animal as living at one’s property.
- J M. “Humane care” means care of an animal that includes providing necessary food, water, shelter, rest, sanitation, ventilation, space and medical attention in a way that the health and safety of the animal is not imperiled.
- KN. “Impound” means to seize or take control of any animal pursuant to the terms of this Chapter, whether by an Animal Services officer, a police officer, or other commissioned person, for purposes of impoundment and further administrative or judicial action. This includes animals brought to the shelter by members of the general public.
- O. “Kennel” means a place where adult dogs or cats are kept by persons providing facilities for breeding and the offspring thereof are sold for profit, or where such dogs or cats are received for care, training and boarding for compensation, but not including a small animal hospital, clinic or pet shop. An adult dog or cat is one of either sex, altered or unaltered, that has reached the age of six months.
- L P. “Leash” means a cord, thong or chain by which a dog is controlled by the person accompanying it.
- M Q. “License” means the dog, cat or other pet animal license used for registration and identification.
- R. “Menacing” means when an animal engages in threatening behavior on public or private property which is not the property of the animal’s owner and which reasonably places a person in fear of immediate physical harm to him or herself or to an animal under the immediate control of such person. Such behavior shall include but is not limited to growling, snarling, barking, snapping of teeth or any other behavior that restricts or controls a person’s movements.
- S. “Necessary food” means the provision at suitable intervals of wholesome foodstuff suitable for the animal’s age and species and sufficient to provide a reasonable level of nutrition for the animal.
- NT. “Nuisance pet animal” means a pet animal that:
1. Damages or destroys landscaping or property of another person, including destruction of wildlife that has been purposefully attracted to the person’s property, or
  2. Soils or defecates on public or private property other than the owner’s, unless such waste is immediately removed and properly disposed of by the owner of the pet animal, or
  3. Causes unsanitary, dangerous, or offensive conditions, or
  4. Is a female dog or cat in heat not confined within a structure to prevent access of male dogs or cats except for planned breeding, or

5. Chases people including but not limited to cyclists or vehicles, or molests or interferes with persons or other animals on public or private property, other than the owner's property, or
  6. Habitually or continually disturbs the peace and quiet of any individual or neighborhood by barking, whining, howling, or making any other noise; or
  7. Trespass on private property and the property owner or tenant supplies a written complaint to Animal Services, and, in the case of a cat, physically contains the cat.
- OU. "Officer" means any Animal Services officer, police officer, or other commissioned person designated by the city of Lacey to issue citations, pick up, restrain, impound, place, or dispose of animals or give notice for any other acts duties or functions prescribed by this chapter or other chapters relating to pet animals.
- PV. "Owner" means any person who has a right, claim, title, legal share or right of possession to an animal or who harbors, keeps, possesses or maintains a pet animal, or who encourages a pet animal to remain about their property or premises for a period of fourteen consecutive days or more, or the person named on the license/registration record of any animal as the owner. The parent or guardian of an owner under eighteen years of age shall be deemed the owner for the purposes of this chapter.
- QW. "Pet Animal" means any species of ~~wild or domestic~~ animal sold or retained for the purpose of being kept for pleasure, companionship or utilitarian purposes and not kept as a food source.
- RX. "Potentially dangerous dog" means a dog that according to the records of Animal Services has committed serious offenses as more fully set forth in Section 7.04.070.
- Y. "Quarantine" means to maintain an animal within a structure so that it cannot approach or be approached by humans or other animals outside the owner's immediate family.
- SZ. "Restrained" means secured by a leash and under physical control of a person with the strength and judgment to handle the animal, or tethered to a stationary object which keeps the animal confined to the pet owner's property or premises.
- FAA. "Severe Injury" means any physical injury that results in broken bones or lacerations requiring sutures or cosmetic surgery.
- UBB. "Sterilized" means the animal is surgically rendered incapable of reproduction by means of castration or an ovariectomy.
- CC. "Stray animal" means a domestic or pet animal at large.
- DD. "Substantial bodily harm" means substantial bodily harm as defined in RCW 9A.04.110, incorporated herein by reference.

Section 3: Section 7.04.040 of the Lacey Municipal Code is hereby amended to read as follows: 7.04.040 Licensing and Registration Requirements.

- A. Failure to license a ~~pet animal~~ dog or cat. Except as otherwise provided in this chapter, it is unlawful for any person to own, keep or have control of any dog or cat in the city of Lacey unless the person has procured a license. Failure to license is a civil infraction. If a person is charged with a violation, the person shall not be determined to have committed an infraction if the person produces within fourteen days of the date of issuance proof of licensing or registering of the subject dog or cat under this subsection to either the court clerk or Lacey Violations Bureau. The court or violations bureau at the direction of the court may assess court administrative costs of \$25.00 at the time of dismissal.
- B. Issuance of a license tag. Animal Services or agents thereof shall provide an appropriate identification tag for each dog or cat licensed to persons applying, upon payment of the appropriate license fee. It shall be the responsibility of the owner of a dog to keep a collar or harness on the animal with the license tag attached if the animal is off the owner's property, for cats only, a microchip may substitute if a collar is considered a hazard.
- C. Supplemental identification. Tattooing or microchip implantation is an acceptable auxiliary means of identification but do not replace the license.
- D. Lack of authorized and current tag. A dog or cat without an authorized and current license tag may be impounded, except as otherwise set forth in this chapter.
- E. Annual License Fees. License fees shall be established by resolution of the city council.
- F. Date due. All licenses granted under this chapter shall be valid for one year. ~~Provided, however, that those licenses issued for or during the 1999 calendar year shall remain valid until that date in the calendar year 2000 designated by notice of the Animal Services Director. The Director shall assign a renewal date to each outstanding animal license and prior to the expiration of the 1999 calendar year, notify the owners of such pets of such renewal date. All licenses renewed for the calendar year 2000 or thereafter shall be valid for a period of twelve months following their assigned renewal date. All new licenses issued subsequent to the passage of this ordinance shall be valid until their assigned renewal date, which renewal date shall not less than twelve months subsequent to the issuance of such new license. All renewed licenses shall be valid for a period of twelve months following their assigned renewal date, and the renewal date shall be not less than twelve months subsequent to the issuance of the new license.~~
- G. Licenses nontransferable. Licenses shall not be transferable from one pet to another.
- H. Tag removal unlawful. It is unlawful for any person to remove a tag from any ~~pet animal~~ dog or cat, or to obliterate any tattoo or microchip registered under this chapter without the permission of the owner or issuing authority other than in medical emergency. A violation of this provision shall be a gross misdemeanor.
- I. Kennel or cattery permit. A permit for a kennel or cattery, ~~as defined in the zoning ordinance,~~ may be granted for those land use zones where such use is not prohibited.
- J. Exotic Animals. Owners of constrictor type reptiles over eight (8) feet in length, venomous reptiles, and primates that are not otherwise prohibited, are required to comply with all state and

federal laws for the keeping of such animals and annually register such animals with Animal Services by completing a form provided by Animal Services. Failure to register such animals shall be a misdemeanor and shall subject the animal to immediate impoundment.

Section 4: 7.04.050 of the Lacey Municipal Code is hereby amended to read as follows:

Regulations and violations relating to pet animals. Any person who harbors, keeps, possesses, maintains or has temporary custody of a pet animal shall be responsible for the behavior of such animal whether the person knowingly permits the behavior or not. Such person shall violate the terms of this chapter if:

- A. Pet animal at large. Such person's pet animal is at large as defined in Section 7.04.030D; provided, however, this section shall not prohibit the owner and pet animal from participating in an organized show or training, exercise or hunting session in locations designated and authorized for that purpose. A pet animal at large is a civil infraction.
- B. Nuisance Pet Animal. Such a person's pet animal constitutes a nuisance pet animal as defined in 7.04.030.~~N-T~~. Nuisance pet animal is a civil infraction.
- C. Pet Animal on Public Property. When such person's pet animal is on public property ~~such as, including but not limited to,~~ a public park, beach or school ground and
  1. not on a leash held by a person who is able to maintain physical control unless on public property specifically designated by the City of Lacey as not requiring a leash; or
  2. proper safeguards have not been taken to protect the public and property from injury ~~or~~ or to damage from said animal, or
  3. is in violation of additional specific restrictions which have been posted. Such restrictions shall not apply to guide dogs for the visually impaired or service animals for the physically handicapped, ~~or public property specifically designated by the city of Lacey as not requiring a leash.~~

Pet animal on public property is a civil infraction.

- D. Injury to person or animal. Such person's pet animal, domestic or exotic animal causes injury to a person or ~~domestic or pet animal~~ (see also potentially dangerous dog or dangerous dog, Section 7.04.070). Injury to a person or animal is a misdemeanor.
- E. Failure to possess removal equipment or to remove fecal material. Such person (1) fails to possess on public property the equipment, or material necessary to remove animal fecal material when accompanying a pet animal, or (2) fails to remove animal fecal matter when accompanying an animal off the owner's property. ~~In public parks,~~ On public property, such person shall possess and use the equipment ~~of~~ or material necessary to remove animal fecal material. Failure to remove fecal material is a civil infraction.
- F. Failure to sterilize an adopted pet animal. Such person, when adopting a pet animal from the Animal Services Shelter, fails to have the pet sterilized within the time period specified in the

written agreement, unless specifically recommended by a veterinarian in writing, or in the cases of verifiable placement within a governmental law enforcement agency. Failure to sterilize an adopted pet animal is a civil infraction.

- G. Failure to provide humane care. Such person fails to provide a pet animal with humane care as defined in Section 7.04.030. ~~FM~~. Failure to provide humane care is a misdemeanor.
- H. Failure to meet terms of quarantine. Such person fails to accept or to meet the terms of quarantine notice served pursuant to Thurston County Health Department regulation after an animal has bitten a human. Failure to meet terms of quarantine is a misdemeanor.
- I. Menacing Animal. Such person knowingly keeps or harbors any animal which engages in menacing behavior.

A violation of this section shall be deemed a civil infraction.

Section 5: Section 7.04.052 of the Lacey Municipal Code is hereby repealed.

Section 6: There is hereby added to the Lacey Municipal Code a new section, 7.04.052 to read as follows:

Cruelty to animals. The provisions of this section shall apply to the various forms of cruelty to animals as set forth herein:

- A. Animal Cruelty.
  - 1. An owner of an animal is guilty of animal cruelty if the person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon the animal.
  - 2. An owner of an animal is guilty of animal cruelty if the owner knowingly, recklessly, or with criminal negligence:
    - a. Fails to provide the animal with necessary shelter, rest, sanitation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure; or
    - b. Abandons the animal.

It shall be an affirmative defense, if established by the defendant by a preponderance of the evidence, that the defendant's failure was due to economic distress beyond the defendant's control.

- 3. If an owner commits the crime of animal cruelty by using or trapping to use domestic dogs or cats as bait, prey, or targets for the purpose of training dogs or other animals to track, fight, or hunt, law enforcement officers or animal control officers shall seize and hold the animals being trained. The seized animals shall be disposed of by the court pursuant to provisions of LMC 7.04.052.E.2.
- 4. Animal cruelty is a misdemeanor.

5. Nothing in this section may prohibit the following:
  - a. The use of dogs in the management of livestock, as defined by chapter 16.57 RCW, by the owner of the livestock or the owner's employees or agents or other persons in lawful custody of livestock;
  - b. The use of dogs in hunting as permitted by law; or
  - c. The training of animals or the use of equipment in the training of animals for any purpose not prohibited by law.

B. Poisoning Animals

1. Except as provided in subsections 2. and 3. of this subsection, a person is guilty of the crime of poisoning animals if the person intentionally or knowingly poisons an animal under circumstances which do not constitute animal cruelty in the first degree as defined in RCW 16.52.205.
2. Subsection (1) of this section shall not apply to euthanizing by poison an animal in a lawful and humane manner by the animal's owner, or by a duly authorized servant or agent of the owner, or by a person acting pursuant to instructions from a duly constituted public authority.
3. Subsection (1) of this section shall not apply to the reasonable use of rodent or pest poison, insecticides, fungicides, or slug bait for their intended purposes. As used in this section, the term "rodent" includes but is not limited to Columbia ground squirrels, other ground squirrels, rats, mice, gophers, rabbits, and any other rodent designated as injurious to the agricultural interests of the state as provided in chapter 17.16 RCW. The term "pest" as used in this section includes any pest as defined in RCW 17.21.020.
4. A person violating this subsection B. is guilty of a gross misdemeanor.

C. Unlawful use of a hook. A person is guilty of unlawful use of a hook if the person utilizes, or attempts to use, a hook with intent to pierce the flesh or mouth of a bird or mammal. Unlawful use of a hook is a gross misdemeanor.

D. Removal of animals for feeding, examination, notice and euthanasia.

1. If a law enforcement officer or an animal control officer has probable cause to believe that an owner of a domestic animal has violated this section and no responsible person can be found to assume the animal's care, the officer may authorize, with a warrant, the removal of the animal to a suitable place for feeding and care, or may place the animal under the custody of an animal care and control agency. In determining what is a suitable place, the officer shall consider the animal's needs, including its size and behavioral characteristics. An officer may remove an animal under this section without a warrant only if the animal is in an immediate life-threatening condition.
2. If a law enforcement officer or an animal control officer or animal control officer has probable cause to believe a violation of this chapter has occurred, the officer may authorize an examination of a domestic animal allegedly neglected or abused in



violation of this section by a veterinarian to determine whether the level of neglect or abuse in violation of this section is sufficient to require removal of the animal.

3. Any owner whose domestic animal is removed pursuant to this section shall be given written notice of the circumstances of the removal and notice of legal remedies available to the owner. The notice shall be given by posting at the place of seizure, by delivery to a person residing at the place of seizure, or by registered mail if the owner is known. In making the decision to remove an animal pursuant to this chapter, the officer shall make a good faith effort to contact the animal's owner before removal.
  4. The agency having custody of the animal may euthanize the animal or may find a responsible person to adopt the animal not less than fifteen business days after the animal is taken into custody. The custodial agency may euthanize severely injured, diseased, or suffering animals at any time. An owner may prevent the animal's destruction or adoption by: (a) petitioning Thurston County District Court for the immediate return subject to court imposed conditions, or (b) posting a bond or security in the amount sufficient to provide for the animal's care for a minimum of thirty days from the seizure date. If the custodial agency still has custody of the animal when the bond or security expires, the animal shall become the agency's property unless the court orders an alternative disposition. If a court order prevents the agency from assuming ownership and the agency continues to care for the animal, the court shall order the owner to renew a bond or security for the agency's continuing costs for the animal's care.
  5. If no criminal case is filed within fourteen business day of the animal's removal, the owner may petition the district court where the animal was removed for the animal's return. The petition shall be filed with the court, with copies served to the law enforcement or animal services agency responsible for removing the animals and to the prosecuting authority. If the court grants the petition, the agency which seized the animal must deliver the animal to the owner at no cost to the owner. If a criminal action is filed after the petition is filed but before the animal is returned, the petition shall be joined with the criminal matter.
  6. In a motion or petition for the animal's return before a trial, the burden is on the owner to prove by a preponderance of the evidence that the animal will not suffer future neglect or abuse and is not in need of being restored to health.
  7. Any authorized person treating or attempting to restore an animal to health under this chapter shall not be civilly or criminally liable for such action.
- E. Sentences, Forfeiture of animals, liability of costs, education and counseling.
1. In the case of multiple misdemeanor or gross misdemeanor convictions, the sentences shall be consecutive.
  2. In addition to the penalties imposed by the court, the court shall order the forfeiture of all animals held by law enforcement or animal services under the provisions of this section if any one of the animals dies as a result of violation of this chapter or if the

defendant has a prior conviction under this section. In other cases the court may enter an order requiring the owner to forfeit the animal if the court deems the animal's treatment to have been severe and likely to reoccur. If the forfeiture is ordered, the owner shall be prohibited from owning or caring for any similar animal for a period of two years.

3. In addition to the fines and court costs, the defendant, only if convicted or in agreement, shall be liable for reasonable costs incurred pursuant to this chapter by law enforcement agencies, Animal Services, or authorized private or public entities involved with the care of the animals. Reasonable costs include expenses of the investigation, and the animal's care, euthanization, or adoption.
4. As a condition of the sentence imposed under this chapter, the court may also order the defendant to participate in an available animal cruelty prevention or education program or obtain available psychological counseling to treat mental health problems contributing to the violation's commission. The defendant shall bear the costs of the program or treatment.

F. Limitations and exclusions.

1. No part of this section shall be deemed to interfere with any of the law of this state known as "game laws", nor deemed to interfere with the right to destroy any venomous reptile or any animal known as dangerous to life, limb, or property, or to interfere with the right to kill animals to be used for food or with any properly conducted scientific experiments or investigations, which experiments or investigations shall be performed only under the authority of the faculty of some regularly incorporated college or university of the state of Washington or a research facility registered with the United State department of agriculture and regulated by 7 U.S.C. sec 2131 et seq.
2. Nothing in this chapter applies to accepted husbandry practices used in the commercial raising or slaughtering of livestock or poultry, or products thereof or the use of animals in the normal and usual course of rodeo events or to the customary use or exhibiting of animals in normal and usual events at fairs as defined in RCW 15.76.120.

Section 7: Section 7.04.060 of the Lacey Municipal Code is hereby amended to read as follows:

- A. Impoundment. An officer may impound any pet animal when the animal or the owner or keeper of such animal is in violation of Sections 7.04.050, 7.04.052 and 7.04.070.
- B. Notification of owner. Upon any pet animal being impounded, Animal Services shall, as soon as feasible, notify the owner or keeper, if the owner or keeper is known, of the impoundment of the pet animal, and the terms required for the pet animal's return to the owner or keeper. Notification ~~may~~ will be made by telephone, if possible, or and next by other means appropriate for the circumstances, written notice if the owner's or keeper's telephone number is unknown. If the owner or keeper cannot be identified, the notification of impoundment will be posted on a recorded outgoing telephone message (See subsection D, below), and shall include a description of the pet animal, the reason for impoundment, the general location where the animal was found, and the date when the impounding occurred, and Notice shall advise the

owner or keeper that the pet animal maybe placed for adoption or euthanized by Animal Services unless reclaimed within the time limits provided in this section.

C. Reclaim of pet animal-fees: The owner or keeper may reclaim any pet animal impounded under this chapter within a forty-eight hour holding period from the time of the impoundment, excluding Sundays and holidays, from the time of impoundment by paying a service charge demonstrating that all of the following conditions have been met: ~~claim fee pursuant to a posted schedule of fees duly adopted by the Joint Animal Services Commission and, if the pet animal is a pet animal which is not licensed, shall also pay the appropriate fee for a license. Service charges are in addition to any fine, penalty, or medical fee incurred.~~

1. Paying a claim fee pursuant to a posted schedule of fees duly adopted by the Joint Animal Services Commission;

2. Paying all fines and penalties;

3. Paying all medical costs incurred during the animal's impoundment;

4. Demonstrating that all conditions for the release of the pet animal have been met;

5. Obtaining a license, if the animal was not previously licensed.

The director or designee may specify the date when such fees, fines, penalties and costs must be paid.

~~4~~D. Failure by owner to reclaim. If the owner of the pet animal can be identified and fails to reclaim the pet or sign a release of ownership of the pet animal within the forty-eight hour holding period, the pet animal will be considered released to Animal Services. However, the owner or keeper will remain responsible for payment of the impound, medical and service fees. If the failure to reclaim the pet animal is due to the owner's incarceration or incapacity, notification of that fact to Animal Services will serve to extend the 48-hour period by an additional 48 hours. The pet animal may be reclaimed during that additional 48-hour period by any person who has obtained the written or verbal permission of the owner to reclaim the animal, or by any person who is an agent for the owner or keeper. Verbal permission must be provided by the owner to the Director or his/her designee.

~~2~~E. Availability for adoption. If the pet animal is not ~~redeemed~~ reclaimed by the owner or keeper within the period ~~forty-eight hours~~ of impoundment, specified in subsection D., it will be made available for adoption during the next forty eight hours, excluding Sundays and holidays, unless, in the opinion of the Animal Services Director or director's designee, the animal is unsuitable for adoption, in which case it may be ~~humanely destroyed.~~ euthanized.

~~3~~F. Late Reclaim. If a pet is adopted after the forty-eight hour holding period, and an owner or keeper appears to reclaim the animal after that time, return of the animal to the original owner or keeper shall be at the discretion of the adopter.

4.G. Opportunity for Hearing. Prior to reclaiming any impounded animal, any owner wishing to contest the impoundment of his/her animal and /or the assessment of fees pursuant to impoundment shall be subject to the following procedure:

1. The owner or keeper must appear in person at the Animal Services shelter, and request the form for contesting impoundment and fees. If the owner is unable to personally appear due to his or her incarceration or incapacity, he or she may provide written or verbal permission to another person to act in his/ her place. Verbal permission must be provided to the Director or his/her designee.
2. The owner or keeper or his or her designee must complete the form, and sign it under penalty of perjury.
3. The owner or keeper or his or her designee must give the completed form to staff at the Animal Services Shelter. The Animal Services Director or his/her designee will review the form and records on file for the impoundment, will meet with the owner or keeper or his or her designee, and will decide based on all the above whether to impose the fee for impoundment and other services as set forth in this Section, to adjust fees based on the completed form, or to not assess fees based on the completed form. The decision of the Director or his/her designee is non-appealable.

D H. Owner unknown. If the owner or keeper of a pet animal is not known, a notice providing appropriate information as described in Section 7.04.060.B above shall be recorded onto a telephone message device maintained by Animal Services. This notice shall continue to be recorded for a period of ninety-six hours from the date of impoundment, or less if the pet animal is reclaimed or adopted after the forty-eight hour holding period required by Section 7.04.060-~~CD~~ above.

E-I. Sick and injured. All seriously sick or injured pet animals, licensed or not, may be impounded when not in the owner's or keeper's possession and may be given emergency medical treatment or euthanized. Costs for any medical treatment provided in this manner will be the responsibility of the owner or keeper of the pet animal, if known, or, if unknown, of Animal Services. The Animal Services Director or designee shall immediately notify the owner, if the owner is known, and if the owner is unknown, make all reasonable efforts to locate and notify the owner.

F J. Abandoned pet animals. Any abandoned pet animal is hereby declared a nuisance. Officers are empowered have authority to impound any pet animal that:

1. is found abandoned within any building, establishment, or property, whether public or private;, or
2. comes into the custody of Animal Services due to police or other government action against the pet animal's owner.

Upon such impoundment, Animal Services shall treat such pet animal in the same manner as other impoundments provided for in this chapter. Litters of puppies and kittens under three months of age

brought to or left at the Animal Shelter may be made available for adoption, placed in foster care or euthanized immediately at the discretion of the director or the director's designee.

~~G-K~~ ~~Humane destruction~~ Euthanasia If any pet animal is not ~~redeemed~~ reclaimed or adopted at the end of the ~~96-hour~~ holding period from the time it entered the shelter, it may be disposed of by Animal Services including being euthanized. An animal determined by the Director or Director's designee to be feral is subject to being euthanized at any time after its impoundment and will not be subject to the 96-hour holding period.

Section 8: Section 7.04.070 of the Lacey Municipal Code is hereby amended to read as follows:

- A. Classification. The Animal Services Director or designee shall have the authority to classify potentially dangerous dogs and dangerous dogs. The authority to classify an animal as potentially dangerous or dangerous is in addition to any civil or criminal penalty as set forth herein. The Animal Services Director may find and declare an animal potentially dangerous if there is ~~probable~~ reasonable cause to believe that the animal's action falls within the descriptions which follow. The finding must be based upon the written complaint of a person who has pertinent information and who is willing to testify that the dog has acted in a manner which may cause it to be classified as a dangerous dog or a potentially dangerous dog,<sup>3</sup> and one of the following applies:
1. Reports on file with Animal Services show about previous aggressive behavior by the dog; or
  2. Actions of the dog have been witnessed by any Animal Services Officer or law enforcement officer; or
  3. Other substantial evidence of reasonable cause exists.
- B. Actions resulting in designation. The following actions may result in the designation as potentially dangerous dog or dangerous dog.
1. A dog shall be declared potentially dangerous if, unprovoked, it:
    - a. Inflicts a bite or bites on a human or pet or domestic animal either on public or private property, or
    - b. Chases or approaches a person upon the street, sidewalks or any public grounds, or behaves in a menacing ~~fashion~~ manner or assumes an apparent attitude of attack; or
    - c. Has a known propensity to attack unprovoked, or to cause injury or otherwise to threaten the safety of humans or pet or domestic animals.
  2. A dog shall be declared dangerous when, according to the records of Animal Services, the dog has:

- a. Inflicted severe injury or substantial bodily harm on a human being without provocation on public or private property;
  - b. Killed a pet or domestic animal without provocation while off the owner's or keeper's property; or
  - c. Aggressively bitten, attacked or endangered the safety of humans or pet or domestic animals after previously having been found to be potentially dangerous, and the owner or keeper has received written warning.
3. A dog shall not be declared potentially dangerous or dangerous if:
- a. The threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the property occupied by the owner or keeper of the dog, or
  - b. The person was tormenting, abusing or assaulting the dog or has, in the past, been observed or reported to have tormented, abused or assaulted the dog, or
  - c. The person was committing or attempting to commit a crime; or
  - d. Another pet animal or domestic animal has entered the property of the owner of the dog without invitation; or
  - e. The dog, when on a leash, is responding to attack by another pet or domestic animal whether on or off the owner's property.

C Declaration as potentially dangerous or dangerous dog.

1. Notice of Declaration. The declaration of a dog as potentially dangerous or dangerous shall be in writing and shall be served on the owner or keeper in one of the following methods:
  - a. Certified mail to the owner or keeper's last known address; or
  - b. Personally; or
  - c. If the owner or keeper cannot be located by one of the first two methods, by publication in a newspaper of general circulation as designated in LMC 1.08.010.
2. Contents of Declaration. The declaration shall state at least:
  - a. The description of the dog;
  - b. The name and address of the owner or keeper of the dog;

- c. The whereabouts of the dog if it is not in the custody of the owner or keeper;
  - d. The facts upon which the declaration of potentially dangerous or dangerous is based;
  - e. The availability of a hearing in the case the person objects to the declaration, if a written request for a hearing is made within ten days of mailing the declaration or the date of publication, if the publication was published;
  - f. The restrictions placed on the dog as a result of the declaration of potentially dangerous or dangerous;
  - g. The penalties for violation of the restriction, including the possibility of destruction of the dog, costs of confinement and control of the animal, and imprisonment or fining of the owner or keeper.
3. Objection to Declaration. If the owner or keeper of the dog wishes to object to the declaration of a dog as potentially dangerous or dangerous; the owner or keeper may within ten days of receipt of the declaration, or within ten days of publication of the declaration pursuant to Section 7.04.070. C.1.c request a hearing before the Animal Services Director. The hearing will be scheduled by the Director or designee within a reasonable time after receipt of the request for hearing. Pending the hearing, the owner or keeper of such dog shall comply with any restrictions specified in the declaration.
4. Hearing on Declaration.
- a. If the Director finds that there is insufficient evidence to support the declaration, it shall be rescinded, and the restrictions imposed thereby annulled.
  - b. If the Director finds sufficient evidence to support the declaration the director may impose the same or different restrictions on the dog.
  - c. ~~While the appeal is pending before the director, the potentially dangerous or dangerous dog must be confined to the owner's or keeper's property in such a way to prevent approach of the public or other pet or domestic animals. When in a vehicle, the dog must be securely restrained to prevent escape. A decision of the Director to affirm the declaration as potentially dangerous or dangerous, and any resulting restrictions shall be stated in a document containing written findings sent to the owner or keeper of the dog via regular and certified mail, return receipt requested, or delivered in person to the owner. A copy of such document shall be provided to the complaining citizen in the same manner.~~
45. Appeal of Animal Services Director's Designation. The owner or keeper of a dog declared to be potentially dangerous or dangerous or the complaining citizen may appeal the findings of the Director of Animal Services to the Joint Animal Services Commission. A written request for such an appeal shall be filed with the Director within ten (10) days after receipt of the written findings as specified in subsection C.4.c. above.

a. While the appeal is pending, the owner must comply with any restrictions specified in the declaration by the Director. When in a vehicle, the dog must be securely restrained to prevent escape.

~~a. The owner or keeper of a dog declared to be potentially dangerous or the complaining citizen must submit a written request for a review of the director's findings to the director within ten days of receipt of the written findings.~~

b. The owner or keeper and the complaining citizen shall be notified of the time and place for the review hearing.

c. The Joint Animal Services Commission may affirm, reverse or modify the findings of the Animal Services Director.

d. The decision of the Joint Animal Services Commission shall be mailed by regular and certified mail return receipt requested to the owner or keeper ~~owner/keeper and to the~~ complaining citizen.

D. Control and confinement of potentially dangerous or dangerous dogs includes:

1. Potentially dangerous dogs

a. Must be securely leashed and under the control of a person physically able to restrain and control the animal when away from the property of the owner or keeper; or

b. While on the property of the owner or keeper must be securely restrained and controlled by means of a physical device or structure such as a tether, trolley system or other physical control device or any structure made of materials strong enough to adequately and humanely confine the dog in a manner which prevents it from escaping the property; and

c. Must be kept in conformance with other restrictions which may be set forth in the notice classifying the dog as potentially dangerous.

2. Dangerous dogs

a. Must be securely muzzled and leashed and under the control of a person physically able to control the dog if the dog is away from the property of the owner or keeper; or

b. While on the property of the owner or keeper, the dog must be securely confined inside a locked building, kennel, pen, or other structure having secure sides, bottom, and top, suitable to prevent the entry of young children and designed to prevent the animal from escaping; and

c. Must be kept in conformance with other restrictions which may be set forth in the declaration ~~notice~~ classifying the dog as dangerous.



d. The owner or keeper of a dog designated as dangerous will be required to obtain a certificate of registration as a dangerous dog pursuant to the provisions of subsection E below.

E. Certificate of registration as dangerous dog. The Animal Services Director shall issue a certificate of registration to the owner or keeper of a dangerous dog if the owner or keeper presents sufficient evidence of:

1. A proper enclosure to confine the dog, which meets the requirements of subsection D, above, Section 7.01.070.D, and the posting of the property with a clearly visible warning sign that there is a dangerous dog on the property; and
2. A surety bond issued by a surety insurer qualified under RCW Chapter 48.28, in a form acceptable to the Animal Services Director in the sum of at least \$250,000.00 ~~\$50,000~~, payable to any person injured by the dangerous dog, or a policy of liability insurance issued by an insurer qualified under RCW Title 48 in the amount of at least \$250,000.00 ~~\$50,000~~, insuring the owner or keeper for any injuries inflicted by the dangerous dog; and
3. Such other identifying information as may be required by the Animal Services Director; and
4. Certification that the owner or keeper is aware of and understands the nature of the dog and the provisions of the law which apply to it; and
5. Payment of an annual registration fee for a dangerous dog in the sum of \$75, which shall be in addition to the annual license fee.

F. ~~Violations relating to~~ following declaration of ~~to~~ potentially dangerous or dangerous dog ~~penalties regulations.~~

1. Any potentially dangerous or dangerous dog which is in violation of the restrictions contained in this section or of restrictions imposed as part of declaration of potentially dangerous or dangerous dog, may be seized and impounded at the expense of the dog owner or keeper. The owner or keeper must pay the costs of confinement and control. The Director or his/her designee must serve notice upon the dog owner or keeper in person or by regular and certified mail, return receipt requested, specifying the reason for the impoundment of the dangerous dog, that the owner or keeper is responsible for payment of the costs of impoundment, and that the dog will be euthanized if the deficiencies for which the dog was impounded are not corrected within twenty days, and specifying the appeal procedure for a decision to destroy the animal. The animal control authority shall destroy the impounded dangerous dog in an expeditious and humane manner if any deficiencies required by this subsection are not corrected within twenty days of notification. The appeal procedure for a decision to euthanize the animal is as follows:
  - a. The owner or keeper of a dog that will be euthanized according to the provisions of this section may appeal that decision to the Joint Animal Services Commission. The

owner or keeper must submit a written request for an appeal to the Director within ten days of receipt of the notice referenced in this subsection.

b. The Owner or keeper shall be notified of the time and place for the appeal. Failure to appear at the specified time will result in an order by the Commission affirming the Director's decision.

c. The Joint Animal Services Commission may affirm, reverse or modify the decision of the Director. The decision of the Commission shall be sent to the owner or keeper by regular and certified mail, return receipt requested.

2. Violation of Any person violating the provisions of this section relating to keeping, securing or confining of potentially dangerous dogs shall constitute be deemed guilty of a misdemeanor, unless state law provides for a higher penalty. In addition, the person's potentially dangerous dog may be impounded by Animal Services, at the discretion of the Director of Animal Services, or his or her designee.

3. Violation of Any person violating the provisions of this section relating to keeping, securing or confining of dangerous dogs shall constitute be deemed guilty of a gross misdemeanor, unless state law provides for a higher penalty. In addition, the person's dangerous dog may be impounded by Animal Services, at the discretion of the Director of Animal Services, of his or her designee.

~~4. The Animal Services Director may petition Thurston County District Court to determine disposition of said potentially dangerous or dangerous dog. The owner or keeper of said dog shall be given notice of such hearing and attendance shall be mandatory. After hearing, the court may rule that:~~

~~a. There is insufficient evidence to support the allegations made, whereupon the dog will be released to its owner subject to any restrictions imposed upon it previously;~~  
~~or~~

~~b. The dog shall be euthanized by Animal Services; or~~

~~e. Under special circumstances and subject to the restrictions of RCW Chapter 16.08, the owner or keeper may be allowed to permanently remove the dog from the county; provided that adequate security or assurance against its return is given, and the court is convinced that the dog will be kept in such a manner that it is no longer a danger to persons, property or other animals.~~

G. Other Dangerous Pet Animals. The Animal Services Director or designee shall have authority to classify other pet animals as dangerous under the same criteria as used in Section 7.04.070.A for dogs. Such designation will be based on specific actions by the animal such as those noted in Section 7.04.070.B and the Animal Services Director or designee shall have authority to require the owner or keeper of such pet animal to take certain actions to control or confine the pet animal. Once a pet animal has been declared potentially dangerous or dangerous, any violations of the provisions of this section will be handled in the same manner as violations under Section 7.04.070.F.

Section 9: Section 7.04.080 of the Lacey Municipal Code is hereby amended to read as follows:

Infractions and enhanced penalties for subsequent violations. Violation of the following sections of this chapter shall constitute Class 4 civil infractions pursuant to RCW Section 7.80.120, except as otherwise noted:

- A. Section 7.04.040.A. Failure to license is a class 3 civil infraction. The infraction shall be dismissed if the person cited provides evidence of licensing of the subject animal to the Thurston County District Court Clerk or the Lacey Violations Bureau within 14 days of the date of the issuance of the infraction. The court or violations bureau at the direction of the court may assess administrative costs up to \$25.00 at the time of the dismissal.
- B. Section 7.04.050.A. Pet animal at large is a class 3 civil infraction. A second violation within an 18 month period is a class 2 civil infraction. A third violation within an 18 month period is a class 1 civil infraction. Four or more violations of this section within an 18 month period is deemed a misdemeanor.
- C. Section 7.04.050.B. Nuisance pet animal is a class 3 civil infraction. A second violation within an 18 month period is a class 2 civil infraction. A third violation within an 18-month period is a class 1 civil infraction. Four or more violations of this section within an 18 month period is deemed a misdemeanor.
- D. Section 7.04.050.C. Pet animals on public property is a class 4 civil infraction. Four or more violations of this section within an 18 month period is deemed a misdemeanor.
- E. Section 7.04.050.E. Failure to remove fecal material is a class 4 civil infraction. Four or more violations of this section within an 18 month period is deemed a misdemeanor.
- F. Section 7.04.050.F. Failure to sterilize an adopted pet animal is a class 4 civil infraction. Four or more violations of this section within an 18 month period is deemed a misdemeanor.
- G. Section 7.04.050 I. Keeping or harboring a menacing animal off premises is a class 3 civil infraction. The second or subsequent infraction within an 18 month period is a class 2 civil infraction.

For purposes of this section, the term “within an 18 month period” shall be calculated from the date of the first violation to the date of the violation being considered.


Civil infractions shall be heard and determined according to RCW Chapter 7.80, as amended, and any applicable court rules.

Section 10: Severability. If any provision of this ordinance or its application to any person or circumstances is held invalid, the remainder of this ordinance or application of the provision to other persons or circumstances shall be unaffected.

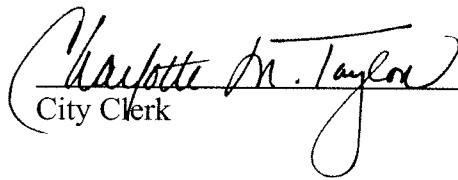
Section 11: The summary attached hereto is approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, this  
15th day of December, 2005.

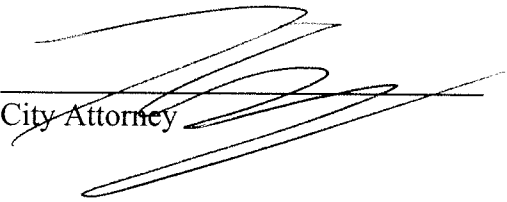
CITY COUNCIL

By   
Mayor

Attest:

  
City Clerk

Approved as to form:

  
City Attorney

Published: December 19, 2005  
Monday