

ORDINANCE NO. 1633

CITY OF LACEY

AN ORDINANCE RELATED TO ANIMAL SERVICES AND COMMUNITY CATS, AMENDING SECTIONS 7.04.030, 7.04.040, AND 7.04.052, ALL TO THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.

WHEREAS, Joint Animal Services has developed a new, lifesaving cat program called the “Community Cat Program;” and

WHEREAS, the Joint Animal Services Commission has recommended updating certain sections of the Lacey Municipal Code to support the Community Cat Program; and

WHEREAS, Joint Animal Services staff have identified an opportunity to update Section 7.04.052 of the Lacey municipal code to better conform to analogous state law; and

WHEREAS, the City Council finds that adoption of the proposed amendments would be in the interest of the citizens of Lacey.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, AS FOLLOWS:

Section 1. Section 7.04.030 of the Lacey Municipal Code is hereby amended as follows:

7.04.030 Definitions.

The following definitions shall apply in this chapter:

- 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. 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 has been caused by the dog, or trespass has occurred; or
3. 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.

F. "Community Cat" means any free roaming cat that may be cared for by one or more residents in the area, known or unknown. Community cats with ears-tipped were sterilized and vaccinated against rabies at least one time. Community cats are not considered pet animals.

G. "Community cat caregiver" means a person who provides care to a community cat in the form of food, water, shelter and veterinary care, while not being considered the owner, custodian, harbinger, possessor, or keeper of a community cat.

H. "Dangerous Dog" means a dog that according to the records of Animal Services has committed serious offenses as more fully set forth in LMC 7.04.070.

I. "Director" means the Director of Animal Services or his/her designee.

J. "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.

K. "Euthanasia" means 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.

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

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

LN. “Harbors, keeps, possesses, or maintains a pet animal” means providing care, shelter, protection, refuge, food, or nourishment in such manner as to influence the behavior of the animal; or, treating the animal as living at one’s property.

MO. “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.

NP. “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.

OQ. “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.

PR. “Leash” means a cord, thong or chain by which a dog is controlled by the person accompanying it.

QS. “License” means the dog, cat or other pet animal license issued for registration and identification.

RT. “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.

SU. “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.

FV. “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. Trespasses 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.

UW. "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.

VX. "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.

WY. "Pet animal" means any species of animal sold or retained for the purpose of being kept for pleasure, companionship or utilitarian purposes and not kept as a food source.

XZ. "Potentially dangerous dog" means a dog that according to the records of Animal Services has committed serious offenses as more fully set forth in LMC 7.04.070.

YAA. "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.

BBZ. "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.

AACC. "Severe injury" means any physical injury that results in broken bones or lacerations requiring sutures or cosmetic surgery.

~~BBDD~~. “Sterilized” means the animal is surgically rendered incapable of reproduction by means of castration or an ovariectomy.

~~CCCE~~. “Stray animal” means a domestic or pet animal at large.

~~DDFF~~. “Substantial bodily harm” means substantial bodily harm as defined in RCW 9A.04.110, incorporated herein by reference.

Section 2. Section 7.04.040 of the Lacey Municipal Code is hereby amended as follows:

7.04.040 Licensing and registration requirements.

A. Failure to License a ~~Dog or Cat~~pet animal. Except as otherwise provided in this chapter, it is unlawful for any person to own, keep or have control of any dog or cat considered a pet animal in the city of Lacey unless the person has procured a license. Failure to license a pet animal 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 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 are 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 adopted by reference as established annually by the joint animal services commission (JASCOM).

F. Date Due. All licenses granted under this chapter shall be valid for one year. 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 animal to another.

H. Tag Removal Unlawful. It is unlawful for any person to remove a tag from any dog or cat,

or to obliterate any tattoo or microchip registered under this section without the permission of the owner or issuing authority other than in a medical emergency. A violation of this provision shall be a gross misdemeanor.

I. Kennel or Cattery Permit. A permit for a kennel or cattery may be granted for those land use zones where such use is not prohibited.

J. Exotic Animals. Owners of constrictor type reptiles over eight 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 3. Section 7.04.052 of the Lacey Municipal Code is hereby amended as follows:

7.04.052 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~~ A person 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~~ A person 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~~ a person 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 (B)(2) and (3) of this section, 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 (B)(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 (B)(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 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 days 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 States Department of Agriculture and regulated by 7 U.S.C. Section 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.

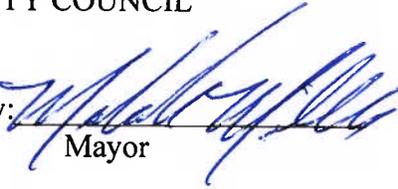
Section 4. SEVERABILITY. If any section, sentence, clause or phrase of this ordinance should be held to be invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 5. CORRECTIONS. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 6. The Summary attached hereto is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY,
WASHINGTON, at a regularly-called meeting thereof, held this 19th day of
January, 2023.

CITY COUNCIL

By: 
Mayor

Approved as to form:


City Attorney

Attest:


City Clerk

SUMMARY FOR PUBLICATION
ORDINANCE NO. 1633
CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on January 19, 2023, Ordinance No. 1633, entitled “AN ORDINANCE RELATED TO ANIMAL SERVICES AND COMMUNITY CATS, AMENDING SECTIONS 7.04.030, 7.04.040, AND 7.04.052, ALL TO THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.”

The main points of the Ordinance are described as follows:

1. The Ordinance amends sections 7.04.030, 7.04.040, and 7.04.052 of the Lacey Municipal Code, all related to animal services.
2. The Ordinance approves this Summary for Publication.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

Published: January 23, 2023