

ORDINANCE 822

CITY OF LACEY

AN ORDINANCE RELATING TO DANGEROUS AND POTENTIALLY DANGEROUS DOGS AND AMENDING AND ADDING SECTIONS TO CHAPTER 7.04 OF THE LACEY MUNICIPAL CODE

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 to read as follows:

"A. 'Animal shelter' means a place provided and operated under the authority of the joint animal control commission for the impoundment, care and euthanasia of dogs, cats and other pet animals.

"B. 'At large' means any dog found off the premises or outside the vehicle of the owner or custodian of the dog and not under control of a person by means of a leash.

"C. 'Barking, howling or yowling pet animal' means any pet animal which by frequent or habitual howling, yowling, yelping or barking constitutes a nuisance.

"D. 'Dangerous dog' means any dog that according to the records of the joint animal control commission, (1) has inflicted severe injury on a human being without provocation on public or private property, (2) has killed a domestic animal without provocation while off the owner's or keeper's property, or (3) has previously been found to be potentially dangerous, the owner or keeper having received notice of such and the dog again aggressively bites,

attacks or endangers the safety of humans or domestic animals. A dog shall not be declared dangerous if the threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the dog or 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 was committing or attempting to commit a crime.

"D E. 'Euthanasia' means the humane destruction of an animal.

"E F. 'Impound' means to take control by authorized officials of any animal found to be in violation of this chapter and pursuant to the terms of this chapter.

"F G. Kennel.

"1. 'Hobby kennel' means a noncommercial kennel at or adjoining a private residence where four or more adult dogs and/or cats are bred and/or kept for hunting, training and exhibition for organized shows, field working and/or obedience trials or for enjoyment of the species.

"2. 'Commercial 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.

"G H. 'Leash' includes a cord, thong or chain by which a dog is controlled by the person accompanying it.

"H I. 'License' means the dog, cat or other pet animal license issued for registration and identification.

"I J. 'Officer' or 'official' means any police officer, animal control officer or other official designated by the city to issue licenses or citations, pick up, restrain, impound, sell, dispose of or give notice for any other acts, duties or functions prescribed by this title or other title relating to pet animals.

"J K. 'Owner' means any person, firm or corporation owning, having an interest in or having custody or possession of any pet animal.

"K L. 'Pet animals' means dogs (Canidae), cats (Felidai), monkeys and other similar primates, turtles, psittacine birds, skunks or any other species of wild or domestic animals, female, spayed female, male or neutered male, sold or retained for the purpose of being kept as a pet.

"L M. '~~Vicious animal~~' means ~~any pet animal which creates a reasonable apprehension of injury to persons or property, or any pet animal for which two or more written verified complaints have been received alleging that the pet animal has injured a human being.~~

"M. 'Potentially dangerous dog' means any dog that when unprovoked: (1) inflicts bites on a human or a domestic animal either on public or private property, or (2) chases or approaches a person upon the streets, sidewalks or any public grounds in a menacing fashion or apparent attitude of attack, or any dog with a known propensity, tendency or disposition to attack unprovoked, to

cause injury, or to cause injury or otherwise to threaten the safety of humans or domestic animals.

"N. 'Proper enclosure of a dangerous dog' means, while on the owner's or keeper's property, a dangerous dog shall be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top, and shall also provide protection from the elements for the dog.

"O. 'Severe injury' means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery."

Section 2. Section 7.04.050 of the Lacey Municipal Code is hereby amended to read as follows:

"It shall be unlawful for the owner or custodian of any pet animal to:

"A. Permit a dog to be at large as defined herein; provided, however, this section shall not prohibit the owner from permitting a dog to participate in an organized dog show or training, exercise or hunting session in a location designed and authorized for such purpose. A dog within the confines of the premises of the owner or with the consent of the property owner shall not be considered to be at large;

"B. Permit a pet animal to damage property of another, including other animals. This prohibition shall also apply to the deposit of fecal material on public or private property;

"C. Permit a pet animal, whether on leash or at large, to

trespass on a public park or portion of a public park designated and posted by the city's director of parks and recreation as a restricted area to animals; provided, however, that the restrictions shall not apply to guide dogs for the visually impaired;

"D. Keep or maintain within the city a barking dog or yowling pet animal as defined herein;

"E. Keep or maintain within the city a dangerous dog vicious-pet-animal as defined herein, without a certificate of registration issued pursuant to Section 7.04.055 or without complying with the terms of said section unless-the-pet-animal-is securely-confined-on-the-owner's-premises-in-a-manner-so-as-not-to endanger-persons-lawfully-entering-the-owner's-property-or-other property;

"F. Any person in control of or owning a pet animal which causes damage to public property, shall, in addition to the penalties specified in Section 7.04.070, be liable to the agency owning the property for the damages. The damages shall be paid in addition to the impound fee if the animal is impounded pursuant to Section 7.04.060 and shall be required to be paid in addition to the fine set forth in Section 7.04.070 for those persons cited with a misdemeanor."

Section 3. There is hereby added to the Lacey Municipal Code a new section, 7.04.055, to read as follows:

"A. The joint animal control commission shall issue a certificate of registration to the owner or keeper of a dangerous dog if the owner or keeper presents to the joint animal control commission sufficient evidence of:

"1. A proper enclosure to confine the dog, which meets the requirements of Section 7.04.030(N), and the posting of the premises with a clearly visible warning sign that there is a dangerous dog on the property. In addition, the owner or keeper shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous dog; and

"2. For dangerous dogs, a surety bond issued by a surety insurer qualified under Chapter 48.28 RCW in a form acceptable to the joint animal control commission in the sum of at least \$50,000.00, payable to any person injured by the dangerous dog, or a policy of liability insurance issued by an insurer qualified under Title 48 RCW in the amount of at least \$50,000.00, insuring the owner or keeper for any personal injuries inflicted by the dangerous dog; and

"3. Such other identifying information as may be required by the joint animal control commission; and

"4. Certification that the owner or keeper is aware of and understands the aggressive nature of the dog and the provisions of the law which apply to it.

"B. The annual registration fee for each dangerous dog shall be in the sum of \$75.00, and shall be in addition to the annual license fee provided for in Section 7.04.040."

Section 4. There is hereby added to the Lacey Municipal Code a new section, 7.04.058, to read as follows:

"A. The joint animal control commission shall designate one animal control officer as that officer charged with classification of potentially dangerous dogs. Such animal control officer may

find and declare an animal potentially dangerous if the officer has probable cause to believe that the animal falls within the definitions set forth in Section 7.04.030(M). The finding must be based upon:

"1. The written complaint of a citizen who is willing to testify that the animal has acted in a manner which causes it to fall within the definition of Section 7.04.030(D); or

"2. Dog bite reports filed with the animal control officer; or

"3. Actions of the dog witnessed by any animal control officer or law enforcement officer; or

"4. Other substantial evidence.

"B. The declaration of potentially dangerous dog shall be in writing and shall be served on the owner or keeper in one of the following methods:

"1. Certified mail to the owner or keeper's last known address; or

"2. Personally; or

"3. If the owner or keeper cannot be located by one of the first two methods, by publication in a newspaper of general circulation.

"The declaration shall state at least:

"1. The description of the animal.

"2. The name and address of the owner or keeper of the animal.

"3. The whereabouts of the animal if it is not in the custody of the owner or keeper.

"4. The facts upon which the declaration of potentially dangerous dog is based.

"5. The availability of a hearing in case the person objects to the declaration, if a request is made within ten days.

"6. The restrictions placed on the animal as a result of the declaration of potentially dangerous dog.

"7. The penalties for violation of the restrictions, including the possibility of destruction of the animal, and imprisonment or fining of the owner or keeper.

"C. If the owner or keeper of the animal wishes to object to the declaration of potentially dangerous dog:

"1. The owner or keeper may, within ten days of receipt of the declaration, or within ten days of the publication of the declaration pursuant to Section 7.04.058(B)(2), request a hearing before the director of joint animal control by submitting a written request to said director.

"2. If the director finds that there is insufficient evidence to support the declaration, it shall be rescinded, and the restrictions imposed thereby annulled.

"3. If the director finds sufficient evidence to support the declaration, the director may impose the same or different restrictions on the animal.

"D. Following a declaration of potentially dangerous dog and the exhaustion of the appeal therefrom, it shall be unlawful for the owner or keeper of such a dog to permit it:

"1. To be away from the premises of the owner or keeper unless the animal is securely muzzled and leashed, and under

the control of a person 15 years of age or older, physically able to restrain and control the animal; or

"2. While on the premises of the owner or keeper, to be other than securely confined inside a building, kennel, pen or other structure having secure sides, bottom and top. Said building, kennel, pen or other structure shall be kept locked."

Section 5. Section 7.040.060 of the Lacey Municipal Code is hereby amended to read as follows:

"A. Citation. In lieu of impounding a dog in violation of Section 7.04.050(a), or dog or other pet animal in violation of Section 7.04.050(B) or (C), the owner, if known and available, shall be subject to a citation appropriate to the violation incurred. In the case of violation of Section 7.04.050(D), the pet animal shall, whether the owner is known and available or not, be immediately impounded.

"B. Impoundment. If the owner is not known or is not available, the authorized official may impound any pet animal found to be in violation of Section 7.04.050; provided, however, that for violations of Section 7.04.050(B), (C) and (D) the authorized official may impound the animal on any property, including that of the alleged owner of the animal, upon receiving a written complaint from the victim thereof. For violations of Section 7.04.050(A), the authorized official may pursue such dog onto private property only if the officer witnesses the dog at large or if the complainant has seized the dog.

"C. Notification of owner. Upon any pet animal being impounded, the impounding authority shall, as soon as feasible,

notify the owner, if the owner is known, of the impounding of such pet animal, and the terms upon which the pet animal can be redeemed. For the purposes of this section, the notice herein provided for may be by telephone, or by other means appropriate in the circumstances, which notice shall include a description of the pet animal impounded, the reason for impoundment, the date upon which such impounding occurred, and shall advise the owner that the pet animal will be disposed of by the impounding authority unless redeemed within the time limits provided in this chapter.

"D. Redemption of animal. The owner of any pet animal impounded under this chapter may redeem it within 48 hours from the time of impoundment by paying to the impounding authority a service charge pursuant to a posted schedule of impounding fees duly adopted by the joint animal control commission, and, if the pet animal is a dog which is not licensed, shall also pay the appropriate fee for a license. Payment of impoundment fees is not considered to be in lieu of any fine, penalty or license fees. If such pet animal is not redeemed by the owner within 48 hours, it will be made available for sale for the next 48 hours. In case such pet animal is not redeemed or purchased at the end of such time (96 hours), it may be humanely destroyed. Holidays and Sunday shall not be considered when computing the holding period.

"E. When owner not known. In the event that the owner of the pet animal is not known, a notice providing appropriate information as described in subsection (C) of this section shall be posted on the bulletin board maintained by the impounding authority. The notice shall remain posted for a period of 96 hours from the date of

impoundment, or less if the pet animal is redeemed or purchased after the 48-hour holding period required by subsection (D) of this section.

"F. 1. Impoundment of dangerous or potentially dangerous dogs. Any dangerous or potentially dangerous dog which is in violation of the restrictions contained within this ordinance or of restrictions imposed as part of a declaration as a potentially dangerous dog, may be seized and impounded under authority of the joint animal control commission and at the expense of the dog owner.

"2. The appointed director of the animal control authority may request a hearing before the court having jurisdiction of misdemeanors and gross misdemeanors in the municipal boundaries wherein the dog has been located, for a hearing 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 animal will be released to its owner subject to any restrictions imposed upon it previously; or

"b. The animal shall be promptly disposed of by the animal control officer; or

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

1.---Disposition-of-Vicious-Pet-Animal.---Any-pet-animal identified-as-vicious-as-a-result-of-court-action,-and-not appropriately-confined-as-required-by-this-section,-may-be-seized and-impounded.---Such-pet-animal-may-be-redeemed-only-by-the-owner-or keeper,-provided-that-such-person-agrees-to-be-responsible-for-the appropriate-control-of-such-pet-animal.---Any-pet-animal-not maintained-in-accordance-with-such-agreement-may-be-impounded-and humanely-destroyed.

2.---In-any-case-deemed-necessary-by-the-court-to-preserve the-safety-of-persons-or-property,-the-court-may-require-that-a vicious-animal-be-confined-in-a-securely-enclosed-and-locked-pen-or structure-located-upon-the-premises-of-the-owner-of-such-animal-or any-other-place.---Such-pen-or-structure-must-have-secure-sides-and-a secure-top.---If-the-pen-or-structure-has-no-bottom-secured-to-the sides,-the-sides-must-be-imbedded-into-the-ground-no-less-than-one foot-deep.---Such-pen-or-structure-must-be-provided-within-thirty days-of-entry-of-the-court-order-or-such-sooner-time-as-shall-be designated-by-the-court.

"G. Sick and injured. All seriously sick or injured pet animals may be seized and impounded when not in the owner's possession and may be euthanized or given emergency medical treatment. Costs for any medical treatment provided in this manner will be the responsibility of the owner of the pet animal, if known, or, if unknown, of the joint animal control commission. The poundmaster 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.

"H. Abandoned animals. The authorized official is empowered to impound any dog or other pet animal found abandoned within any building, establishment or premises, whether public or private, in such condition as would be considered cruelty to animals under Section 7.04.080. Upon such impoundment, the impounding authority shall treat such dog or other animal in the same manner as other impoundments provided for in this chapter.

"I. Voluntary release.

"1. Any owner desiring to relinquish their ownership of a pet animal to be made available for sale at the animal shelter may notify the poundmaster and, upon signing a consent and release of liability form, the pet animal may be made available for purchase immediately, or retained at the shelter, on a space-available basis, for up to the 96-hour holding period provided for impounded pet animals.

"2. Any owner desiring to have a pet animal euthanized may notify the poundmaster. If the pet animal is adoptable in the opinion of the poundmaster, the poundmaster shall counsel with the owner and urge that the pet animal shall first be made available for adoption. The poundmaster shall euthanize the pet animal only upon the written request of the owner and upon the owner signing a consent and release of liability form.

"3. A pet animal brought to the shelter by a person other than its owner shall be held for the same holding period as impounded nonowner pet animals."

Section 6. Section 7.04.070 of the Lacey Municipal Code is hereby amended to read as follows:

"A. Interference unlawful. It is unlawful for any person to interfere with, hinder, delay or impede any officer in the enforcement of any animal control ordinance adopted by the city and such violation constitutes a misdemeanor.

"B. Violation. Any person violating any of the provisions of this chapter except as provided in subsection (C) of this section is guilty of a misdemeanor. The minimum fine for specific violations shall be as follows:

	1st Violation	2nd Violation	3rd and Subsequent Violation
	<u>Fine</u>	<u>Fine</u>	<u>Fines</u>
1. Unlicensed dog	\$ 15.00	\$ 15.00	\$ 30.00
2. Dog at large	15.00	30.00	100.00
3. Damage property of others	15.00	30.00	100.00
	and restitution		
4. Deposit of fecal material on public or private property	15.00	30.00	100.00
5. Keep or maintain barking dog or yowling pet animal	15.00	30.00	100.00
6. Interference with impound- ment	250.00	250.00	250.00
7. Cruelty to animals	150.00	250.00	500.00*

*and confiscation of animal.

"C. Dangerous or potentially dangerous dogs. Any person violating the provisions of this chapter relating to keeping, securing or confining of dangerous or potentially dangerous dogs shall be deemed guilty of a gross misdemeanor and shall be subject to those penalties set forth in RCW 9A.20.021. Provided, however, that nothing contained within this section shall be deemed to be in lieu of or in any way be in conflict with the provisions of Chapter 94, Laws of 1987, declaring certain acts to be felonies.

~~Vicious-animal-violations---Any-person-violating-the~~

provisions-of-this-section-relating-to-keeping,-securing-or-confining
of-a-vicious-animal-shall-be-deemed-guilty-of-a-gross-misdemeanor
and-shall-be-subject-to-a-fine-not-to-exceed-\$1,000.00-for-a-first
offense-and-not-to-exceed-\$5,000.00-for-a-second-or-subsequent
offense.--In-addition,-the-court-may-impose-a-jail-sentence-not-to
exceed-thirty-days."

Section 7. Nothing in this ordinance shall be intended or construed to create any liability on the part of the city, its officers, employees or contractors or upon the part of the joint animal control commission, its officers or employees. It is not the purpose or intent of this ordinance to create on the part of agents of the city or of the joint animal control commission any special duties to or relationships with specific individuals. This ordinance has been enacted for the welfare of the public as a whole.

Section 8. The summary of this ordinance, which is attached hereto, is approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY,
WASHINGTON, this 28th day of January, 1988.

CITY COUNCIL

BY Kay M. Boyd
Mayor

Attest:

Timothy McGuire
City Clerk

Approved as to form:

[Signature]
City Attorney

Published: 1-1-88

SUMMARY FOR PUBLICATION
ORDINANCE NO. 822

CITY OF LACEY

The City Council of the City of Lacey, Washington, passed, on January 28, 1988, Ordinance 822 entitled "AN ORDINANCE RELATING TO DANGEROUS AND POTENTIALLY DANGEROUS DOGS AND AMENDING AND ADDING SECTIONS TO CHAPTER 7.04 OF THE LACEY MUNICIPAL CODE."

A section by section summary of this Ordinance is as follows:

Section 1 amends LMC Section 7.04.030 defining terms used within the city's animal control laws to define the additional terms of "dangerous dog," "potentially dangerous dog," "proper enclosure of a dangerous dog," and the term "severe injury."

Section 2 amends LMC Section 7.04.050, a provision making it unlawful to keep or maintain within the city a dangerous dog as defined in the ordinance without a certificate of registration issued pursuant to the terms of the ordinance.

Section 3 adds a new section, LMC Section 7.04.055, providing for the issuance of a certificate of registration to the owner or keeper of a dangerous dog and specifying the requirements for the issuance of such a certificate.

Section 4 adds a new section, LMC Section 7.04.058, specifying the conditions and procedures under which a dog will be classified as "potentially dangerous."

Section 5 amends LMC Section 7.04.060, dealing with the impoundment of dogs to provide the terms and procedures to be followed in the impoundment of a dangerous or potentially dangerous dogs.

Section 6 amends LMC Section 7.04.070, dealing with penalties and is set forth in full as follows:

"A. Interference unlawful. It is unlawful for any person to interfere with, hinder, delay or impede any officer in the enforcement of any animal control ordinance adopted by the city and such violation constitutes a misdemeanor.

"B. Violation. Any person violating any of the provisions of this chapter except as provided in subsection (C) of this section is guilty of a misdemeanor. The minimum fine for specific violations shall be as follows:

	1st Violation	2nd Violation	3rd and Subsequent Violation
	<u>Fine</u>	<u>Fine</u>	<u>Fines</u>
1. Unlicensed dog	\$ 15.00	\$ 15.00	\$ 30.00
2. Dog at large	15.00	30.00	100.00
3. Damage property of others and restitution	15.00	30.00	100.00
4. Deposit of fecal material on public or private property	15.00	30.00	100.00
5. Keep or maintain barking dog or yowling pet animal	15.00	30.00	100.00
6. Interference with impound- ment	250.00	250.00	250.00
7. Cruelty to animals	150.00	250.00	500.00*

*and confiscation of animal.

"C. Dangerous or potentially dangerous dogs. Any person violating the provisions of this chapter relating to keeping, securing or confining of dangerous or potentially dangerous dogs shall be deemed guilty of a gross misdemeanor and shall be subject to those penalties set forth in RCW 9A.20.021. Provided, however, that nothing contained within this section shall be deemed to be in lieu of or in any way be in conflict with the provisions of Chapter 94, Laws of 1987, declaring certain acts to be felonies.

~~Vicious-animal-violations--Any-person-violating-the provisions-of-this-section-relating-to-keeping,-securing-or confining-of-a-vicious-animal-shall-be-deemed-guilty-of-a-gross misdemeanor-and-shall-be-subject-to-a-fine-not-to-exceed-\$1,000.00 for-a-first-offense-and-not-to-exceed-\$5,000.00-for-a-second-or subsequent-offense.--In-addition,-the-court-may-impose-a-jail sentence-not-to-exceed-thirty-days-~~"

Section 7 provides that the ordinance is enacted for the welfare of the public as a whole and makes it clear that neither the city nor the joint animal control commission or any of their officers or employees are to be looked to for liability in the carrying out of the terms of the ordinance.

Section 8 approves this summary.

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.