



ORDINANCE NO. 3145

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, RELATING TO ANIMAL CONTROL REGULATIONS; AMENDING SECTIONS 6.02.015F, 6.02.025, 6.02.090 AND 6.02.145 OF THE LYNNWOOD MUNICIPAL CODE; ADDING NEW SECTIONS 6.02.023 AND 6.02.024 TO THE LYNNWOOD MUNICIPAL CODE; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND FOR SUMMARY PUBLICATION.

WHEREAS, in Chapter 6.02 of the Lynnwood Municipal Code, the City Council has established animal control regulations, including regulations relating to potentially dangerous animals and dangerous animals; and

WHEREAS, the City has determined that it is necessary to revise its animal control regulations relating to potentially dangerous animals and dangerous animals, in order to meet requirements established by case law and other constitutional principles; and

WHEREAS, the City Council has determined that it is appropriate, and in the best interests of the public health, safety and general welfare, to amend Chapter 6.02 of the Lynnwood Municipal Code as stated in this Ordinance; now, therefore

THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 6.02.015F of the Lynnwood Municipal Code is amended to read as follows:

- F. "Dangerous animal" means any animal that according to the records of the appropriate authority has:
1. Inflicted severe injury on a human being without provocation on public or private property; or
 2. Killed a domestic animal without provocation while off the owner's property; or
 3. Been previously found to be potentially dangerous because of injury inflicted on a human, the owner having received notice of such, and the animal again aggressively bites, attacks or endangers the safety of humans.

Section 2. A new Section 6.02.023 is hereby added to the Lynnwood Municipal Code to read as follows:

6.02.023 Potentially Dangerous Animal Declaration.

- A. Declaration of Animal as Potentially Dangerous. The animal control authority shall have the authority to declare an animal to be potentially dangerous, and place restrictions on such animal, if the animal control authority determines that the animal meets the definition set forth in LMC 6.02.015N. The declaration must be based upon:
1. The written complaint of a citizen who is willing to testify that the animal has acted in a manner that causes it to meet the definition of LMC 6.02.015N;
 2. Animal bite report(s) filed with the animal control authority;
 3. Action(s) of the animal witnessed by any employee of the animal control authority or law enforcement officer; or
 4. Other substantial evidence.
- B. Exclusions. An animal shall not be declared potentially dangerous if the animal control authority determines that the threat, injury, or bite alleged to have been committed by the animal was sustained by a person who (1) was at the time committing a willful trespass or other tort upon the premises occupied by the owner of the animal, or (2) was tormenting, abusing, or assaulting the animal, or (3) in the past was observed or reported to have tormented, abused, or assaulted the animal, or (4) was committing or attempting to commit a crime.
- C. Notice of Potentially Dangerous Animal Declaration. If the animal control authority receives a report that an animal may meet the definition of a potentially dangerous animal, it shall immediately initiate an investigation including, but not limited to, interviewing the complainant(s), interviewing the owner of the animal, if known, and observing the animal. Upon completion of its investigation, if the animal control authority determines that the animal is potentially dangerous, the animal control authority shall prepare a written declaration.
1. The declaration shall be served on the animal's owner in one of the following methods:
 - a. Regular and certified mail, return receipt requested, to the last known address of the owner; or
 - b. Personal service to the owner.
 2. The declaration shall include, but is not limited to:
 - a. A description of the animal, and the animal's license number, if available;
 - b. The name and address of the animal's owner, if known;
 - c. The location of the animal if not in custody of the owner;

- d. A brief summary of the facts upon which the declaration is based, if known, including the definition of potentially dangerous under which the declaration is being made;
 - e. A statement of any restrictions placed on the animal or owner as a result of the declaration; and
 - f. The ability and process for appealing the declaration by submitting a written appeal in accordance with LMC 6.02.145.
- D. Appeal. The animal control authority's declaration of potentially dangerous animal shall be the final decision of the City, unless the owner timely appeals the declaration to the Lynnwood hearing examiner in accordance with LMC 6.02.145.
- F. Prohibited Ownership. No person(s) under the age(s) of 18 years old shall own a potentially dangerous animal.

Section 3. A new Section 6.02.024 is hereby added to the Lynnwood Municipal Code to read as follows:

6.02.024 Dangerous Animal Declaration.

The provisions of this section apply to the extent they are not inconsistent with the provisions of Chapter 16.08 RCW.

- A. Declaration of Animal as Dangerous. The animal control authority shall have the authority to declare an animal to be dangerous, and place restrictions on such animal, if the animal control authority determines that the animal meets the definition set forth in LMC 6.02.015F; provided, that no animal shall be declared a dangerous animal if the threat, injury, or damage was sustained by a person who at the time provoked the animal, has been reported in the past as having provoked the animal, or was committing or attempting to commit a crime.
- B. Notice of Intent to Declare Animal Dangerous. If the animal control authority seeks to declare that an animal is dangerous, the animal control authority shall serve notice on the animal's owner. The notice shall be served on the owner (1) in person, or (2) by regular and certified mail, return receipt requested, to the last known address of the owner. The notice shall state:
- 1. The name and address, if known, of the owner of the animal;
 - 2. The license number, if available, and description of the animal;
 - 3. The statutory basis for the proposed action;
 - 4. The reasons that the animal control authority proposes to declare the animal dangerous;
 - 5. A statement that the animal is subject to registration and controls required by this Chapter 6.02 and Chapter 16.08 RCW, including the controls of RCW 16.08.080(6);
 - 6. An explanation of the owner's rights and the procedure for appealing the decision finding the animal to be dangerous; and

7. A statement notifying the owner that he or she is entitled to an opportunity to meet with the animal control authority before a final determination is made, at which meeting the owner may give, orally or in writing, any reasons or information as to why the animal should not be declared dangerous. The notice shall state the date, time, and location of the meeting, which must occur prior to the expiration of fifteen calendar days after service of the notice. The owner may propose an alternative meeting time and date, but the meeting must occur within the fifteen day time period.
- C. **Dangerous Animal Declaration - Contents.** After the meeting required under subsection B.7 above, or after the date set for the meeting if the owner does not attend, the animal control authority shall issue its final determination, in the form of a written order, within fifteen calendar days. If the animal control authority determines by a preponderance of the evidence that the animal meets the definition of a dangerous animal under LMC 6.02.015F, the animal control shall issue a written order declaring the animal to be dangerous. The order shall contain:
1. The name and address, if known, of the owner of the animal;
 2. The license number, if available, and description of the animal;
 3. A statement that the animal control authority has found the animal to be a dangerous animal as defined in LMC 6.02.015F and a concise description explaining why the declaration has been made, including the facts supporting the determination and the statutory basis for the action;
 4. A statement that the animal is subject to registration and controls required by this Chapter 6.02 and Chapter 16.08 RCW, including the controls of RCW 16.08.080(6), and including a recitation of those controls;
 5. A statement that the dangerous animal declaration is a final determination unless appealed, and that an appeal must be filed within ten calendar days of service of the dangerous animal declaration in accordance with LMC 6.02.145;
 6. A copy of LMC 6.02.145 regarding appeal procedures and a copy of LMC 6.02.025 regarding requirements for dangerous animals; and
 7. The signature of the person who made the determination.
- D. **Dangerous Animal Declaration - Service.** The dangerous animal declaration shall be served on the owner of the animal either (1) in person, or (2) by regular and certified mail, return receipt requested, at the last known address of the owner.
- E. **Appeal.** The animal control authority's declaration of dangerous animal shall be the final decision of the City, unless the owner timely appeals the declaration to the Lynnwood hearing examiner in accordance with LMC 6.02.145.

Section 4. Section 6.02.025 of the Lynnwood Municipal Code is amended to read as follows:

6.02.025 Dangerous Animal – Requirements. Strict compliance with each of the following conditions is required to keep a dangerous animal in the City:

- A. It is unlawful for a person to own a dangerous animal within the city limits unless that person has a current certificate of registration for that animal. The finance director or other animal control authority shall issue a certificate of registration to the owner of a dangerous animal if the owner presents sufficient evidence of:
1. A proper enclosure to confine the dangerous animal and the posting of the premises with a clearly visible warning that there is a dangerous animal on the premises. Additionally, the owner shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous animal. Said sign shall be visible from the right-of-way or from the normal entrance to the owner's property.
 2. A surety bond issued by a surety insurer qualified under Chapter 48.28 RCW in a form acceptable to the animal control authority in the sum of at least \$250,000, as provided in Chapter 16.08 RCW, payable to any person injured by the animal;
 3. A policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under RCW Title 48 in the amount of \$250,000, with a deductible of no more than \$1,000, as provided in Chapter 16.08 RCW, payable to any person injured by the animal, insuring the owner for any personal injuries or property damage inflicted or caused by the animal, and insuring and indemnifying the city of Lynnwood for any personal injuries or property damage inflicted or caused by the animal;
 4. Proof of placement and current registration of a microchip that is capable of being scanned by an "AVID" or equivalent brand microchip scanner;
 5. Consent for initial and subsequent inspections of the enclosure in which the animal is and will be kept.
- B. There is an annual registration fee for a dangerous animal as shown in Chapter 3.104 LMC. This fee is in addition to the licensing fee.
- C. No person shall allow a dangerous animal to be outside a proper enclosure unless the animal is restrained under a substantial chain or leash not greater than eight feet in length. The leash shall be in the physical control of a responsible adult person. The animal shall be further restrained by a muzzle or other device that prevents the animal from biting or clawing any person or animal; provided, that no muzzle or device shall be made in a manner that causes injury to the animal or interferes with the animal's vision or breathing. Any animal that is in violation of these provisions shall be immediately impounded.

- D. Any dangerous or potentially dangerous animal, whose owner has been convicted under this chapter that attacks a person or domestic animal may be immediately impounded, placed in quarantine per LMC 6.02.100 for the proper length of time, and euthanized. The owner may appeal the impoundment and euthanasia under the provisions of LMC 6.02.145. Euthanasia shall be stayed pending resolution of the appeal.
- E. Any animal that aggressively attacks and causes severe injury or death to a person or domestic animal shall be immediately impounded and placed in quarantine, at the animal owner's expense, for a period of 10 days. The animal may be released to the owner; provided, that the owner obtains a certificate of registration as provided for in this section. If the owner fails to obtain a certificate of registration, the animal may be euthanized. The owner may appeal the impoundment and euthanasia under the provisions of LMC 6.02.145. Euthanasia shall be stayed pending resolution of the appeal.
- F. This section does not apply to guard dogs or dogs used by law enforcement officials while they are:
 - 1. If guard dogs, protecting property under the conditions of LMC 6.02.050; or
 - 2. If used by law enforcement officials, acting in the line of duty.
- G. Once declared a dangerous animal, the animal's owner shall comply with the provisions of this section within 30 days, unless an extension for good cause is granted by the animal control authority.
- H. Any dangerous animal shall be immediately confiscated by the animal control authority if: (1) the animal is not validly registered as required by law; (2) the owner does not secure the liability insurance coverage required by this section; (3) the animal is not maintained in a proper enclosure; or (4) the animal is outside the dwelling of the owner, or outside the property enclosure, and not under physical restraint of the responsible person. The owner must pay the costs of confinement and control. The animal control authority shall serve a notice of the animal's confiscation on the animal's owner in person or by regular and certified mail, return receipt requested, to the owner's last known address. The notice shall specify the reason for the confiscation of the dangerous animal, and state that the owner is responsible for payment of the costs of confinement and control and that the animal will be destroyed in an expeditious and humane manner if any deficiencies under this subsection are not corrected within twenty days. The animal control authority shall destroy the confiscated animal in an expeditious and humane manner if any deficiencies under this subsection are not corrected within twenty days of notification. The owner may appeal the notice under the provisions of LMC 6.02.145. Euthanasia shall be stayed pending resolution of the appeal. The animal control authority shall not be held civilly liable for the euthanasia of the animal.

- I. Any person who violates this section shall be guilty of a gross misdemeanor and may, upon conviction, be punished by confinement not to exceed one year and/or a fine not to exceed \$5,000.
- J. Notification of Status, Change of Ownership, Custody and/or Residence. The owner of a potentially dangerous animal or dangerous animal shall notify the animal control authority, immediately upon discovery of such circumstances, when the animal is loose or unconfined off the owner's property; or has bitten or injured a human being, pet or livestock; or is sold or given away or dies. If the owner moves such animal to another address or otherwise transfers the animal to the ownership, custody, or residence of another individual, the owner shall, within fourteen calendar days of the change, inform the animal control authority in writing of the name, address and telephone number of the new owner and/or the address of the new residence where the animal is located. Such notice shall include the name, description and license number of the animal.
 1. In the event the ownership and/or custody of the animal changes, the owner shall notify the new owner in writing of the details of the animal's record relating to being declared potentially dangerous or dangerous and the terms and conditions of the declaration.
 2. The owner shall also provide the animal control authority with a copy of the written notification, which shall contain a notarized statement by the new owner acknowledging receipt of the notification.

Section 5. Section 6.02.090 of the Lynnwood Municipal Code is amended to read as follows:

Impound procedures.

Except as provided in LMC 6.02.025 for the impound of dangerous animals, the following provisions apply to the impound of animals:

- A. Impounding Animals. If a law enforcement officer or animal control officer has probable cause to believe that an owner of an animal has violated this title or Chapter 16.52 RCW, and no responsible person can be found to assume the animal's care, the officer may authorize, with a warrant or a court order, the removal of the animal to a suitable place for care and feeding of the animal. An officer may remove an animal without a warrant only if the animal is in an immediate life-threatening condition, or is in danger of serious harm, or if the animal presents an immediate threat to the safety of others.
- B. Notice of Impounding. When any licensed animal is impounded, the officer or department impounding such animal shall attempt to give notice to the owner the same day either by mail, or by leaving written notice at the address contained in the license application or by telephone. The notice shall inform the owner of the impounding of such animal and the reason for impounding the animal. Neither the city nor its agents or employees are liable for failure to notify an owner of impoundment.

- C. **Redemption of Animals by Owner.** If, at any time before disposal by the animal control officer, the owner of an impounded animal claims the animal, the owner shall be entitled to possession of the animal only after paying all legal charges and expenses incidental to the impoundment and boarding of the animal. If a domestic animal is impounded and taken to the contract shelter more than twice during a 12-month period it will be mandatory that a microchip capable of being scanned by an "AVID" or other equivalent brand microchip scanner be implanted in the animal before it is released to the owner. The owner of said animal shall incur all expenses incidental to the microchip process that are charged by the contract shelter.
- D. **Disposition of Impounded Animals.** When in the judgment of a licensed veterinarian or the animal control authority's contract shelter that an animal should be euthanized or not returned to the owner for humane or public health reasons, that animal may not be redeemed by its owner. The animal control authority's contract shelter may find a responsible person to adopt the animal not less than 15 days after the animal is impounded. Before an animal is euthanized or adopted out, the animal control authority shall take reasonable steps to serve the owner with notice of the proposed action. Such notice will include the owner's right to appeal the decision in accordance with LMC 6.02.145. The disposition shall be stayed until the appeal process is complete. If the appellate authority decides that the animal should be euthanized, or adopted out, the owner shall be liable for the costs of boarding the animal. The animal control authority shall not be held civilly liable for the euthanasia of the animal.

Section 6. Section 6.02.145 of the Lynnwood Municipal Code is amended to read as follows:

6.02.145 Appeal – Authority.

- A. **Filing of Appeal.** A written notice of appeal shall be filed with the city clerk and the chief of police not more than ten calendar days after service of the order to abate a nuisance, order of impoundment and/or euthanasia, potentially dangerous animal declaration, dangerous animal declaration, or other order issued under this chapter. Failure to timely file a notice of appeal shall constitute a waiver of the right to appeal the order or declaration.
 - 1. If the owner or custodian of the animal does not file a timely written notice of appeal, the restrictions imposed in connection with the order or declaration shall remain in effect for the life of the animal, unless modified or removed by action of the animal control authority.
- B. **Form.** An appeal pursuant to this chapter shall be written and shall contain substantially the following information:
 - 1. A caption reading: "Appeal of ____" giving the names of all appellants participating in the appeal;
 - 2. A statement of the legal interest of each of the appellants;

3. A brief statement of the specific order or action appealed;
 4. A brief statement of the relief sought, and the reasons why it is claimed the order or action should be reversed, modified or otherwise set aside, together with any material facts claimed to support the contentions of the appellant;
 5. Signatures of all parties named as appellants, and their official mailing addresses; and
 6. Certification (by signature of the appellant) that the appellant has read the appeal, and that to the best of the appellant's knowledge, information, and belief, the appeal is well grounded in fact.
- C. **Scheduling of Hearing.** Upon receipt of a timely appeal, a hearing shall be scheduled not more than 60 days from the date of the filing of the appeal. The hearing examiner shall send written notice of the date of the hearing to the appellants and to the city at least 10 days prior to the scheduled hearing date. It shall be the responsibility of the parties to notify witnesses of the hearing date. The failure of the appellant to appear at the hearing shall result in a denial of the appeal and upholding of the order to abate a nuisance, order of impoundment and/or euthanasia, potentially dangerous animal declaration, declaration of dangerous animal, or other order issued under this chapter.
- D. **Enforcement Stayed During Pendency of Appeal.** Unless otherwise determined by the hearing examiner, enforcement of the order to abate a nuisance, order of impoundment and/or euthanasia, potentially dangerous animal declaration, dangerous animal declaration, or other order issued under this chapter, shall be stayed during the pendency of the appeal; provided, that the animal control authority may order that the animal be confined or controlled in compliance with LMC 6.02.025C during the pendency of all appeals. If the animal control authority's order or declaration is upheld or upheld with modifications, the owner shall pay for all costs of confinement and control.
- E. **Hearing before the Hearing Examiner - Presentation of Evidence.** At the appeal hearing, the hearing examiner shall take evidence relevant to the order or declaration. Parties are responsible for subpoenaing any witnesses they deem necessary to testify. The hearing shall be conducted in accordance with any rules of procedure established by the hearing examiner, to the extent the rules do not conflict with the provisions of this section.
- F. **Burden of Proof and Standard of Review.** At the appeal hearing before the hearing examiner, the city shall have the burden of proving that the animal is a nuisance, or is potentially dangerous or dangerous, or that the order of impoundment and/or euthanasia or other order is justified under this chapter, by a preponderance of the evidence.
- G. **Decision of Hearing Examiner.** The hearing examiner shall weigh the evidence presented by both the city and the appellant, and shall issue a written decision to the appellant and city that either affirms, reverses, or modifies the animal control authority's order or declaration.

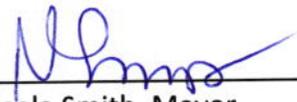
1. The hearing examiner shall notify the nonprevailing party of the right to appeal the hearing examiner's decision.
 2. If the declaration is reversed and an appeal is not timely filed by the animal control authority, any previously imposed restrictions on the animal shall be annulled.
- H. Appeal of Decision of the Hearing Examiner. The decision of the hearing examiner shall be the final decision, unless an aggrieved party appeals to the Snohomish County superior court within 21 calendar days of the date the decision is issued.

Section 7. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional 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 8. Effective Date. This Ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City. This Ordinance shall take effect and be in full force five (5) days after publication.

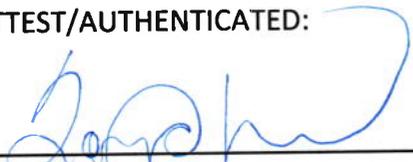
PASSED this 13th day of July, 2015, and signed in authentication of its passage this 21st day of July, 2015.

APPROVED:



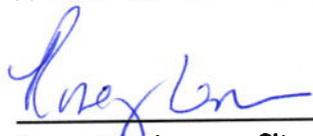
Nicola Smith, Mayor

ATTEST/AUTHENTICATED:



Sonja Springer, Finance Director

APPROVED AS TO FORM:



Rosemary Larson, City Attorney

FILED WITH ADMINISTRATIVE SERVICES: 07/21/2015
PASSED BY THE CITY COUNCIL: 07/13/2015
PUBLISHED: 07/23/2015
EFFECTIVE DATE: 07/28/2015
ORDINANCE NUMBER: 3145



On the 13th day of July, 2015 the City Council of the City of Lynnwood, Washington, passed ordinance 3145. A summary of the content of this ordinance, consisting of the title, provides as follows:

ORDINANCE NO. 3145

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, RELATING TO ANIMAL CONTROL REGULATIONS; AMENDING SECTIONS 6.02.015F, 6.02.025, 6.02.090 AND 6.02.145 OF THE LYNNWOOD MUNICIPAL CODE; ADDING NEW SECTIONS 6.02.023 AND 6.02.024 TO THE LYNNWOOD MUNICIPAL CODE; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND FOR SUMMARY PUBLICATION.

The full text of this ordinance will be mailed upon request.

DATED this 28th day of July, 2015.



Debbie Karber, Deputy City Clerk



LYNNWOOD
WASHINGTON

CERTIFICATE

I, the undersigned, Debra Karber, the duly appointed Deputy City Clerk of the City of Lynnwood, Washington, hereby certify that the Ordinance hereto attached is a full, true and correct copy of Ordinance No. 3145 of the City of Lynnwood, Washington, entitled as follows:

ORDINANCE NO. 3145

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, RELATING TO ANIMAL CONTROL REGULATIONS; AMENDING SECTIONS 6.02.01F, 6.02.025, 6.02.090 AND 6.02.145 OF THE LYNNWOOD MUNICIPAL CODE; ADDING NEW SECTIONS 6.02.023 AND 6.02.024 TO THE LYNNWOOD MUNICIPAL CODE; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

That said ordinance was passed by the Council on July 13, 2015 of said City and was published and posted according to law; that said ordinance was duly published in the official newspaper of said City on July 28, 2015.

Debra Karber, Deputy City Clerk