

**CITY OF LYNNWOOD
ORDINANCE NO. 2091**

AN ORDINANCE AMENDING TITLE 6 OF THE LYNNWOOD MUNICIPAL CODE, MODIFYING THE PENALTIES FOR VIOLATION THEREOF, AND UPDATING THE FEE STRUCTURE THEREOF.

WHEREAS, the State Legislature recently modernized the laws pertaining to animal cruelty to more appropriately address the nature of the offense, and

WHEREAS, the City of Lynnwood incurs costs related to the enforcement of Code provisions pertaining to the control of animals within the City limits, and

WHEREAS, the City finds that owners of animals should be held accountable for the control of their animals such that the animal does not cause injury to the health, safety, or welfare, of the residents of the City;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNNWOOD DO ORDAIN AS FOLLOWS:

SECTION 1. LMC 6.02.015 AMENDED. LMC 6.02.015, Definitions, is amended to read as follows:

6.02.015 DEFINITIONS

- A. "Animal" means any nonhuman mammal, bird, reptile, or amphibian.
- B. "Animal Control Authority" means the department of the City with responsibility for enforcement of the animal control laws of the City, County, and State and the shelter and welfare of animals.
- C. "Animal Control Officer" means any individual employed, contracted with, or appointed by the animal control authority for the purpose of aiding in the enforcement of this chapter or any other law or ordinance relating to impoundment of animals, and including any state or local law enforcement officer or any other employee whose duties in whole or in part include assignments that involve seizure and impoundment of any animal.
- D. "At large" means off the premises of the owner and not under the immediate control of the owner, member of the owner's immediate family or person authorized by the owner, by means of a leash, cord, or chain not longer than eight feet in length.

- E. "Dangerous animal" means any animal that according to the records of the appropriate authority, a) has inflicted severe injury on a human being without provocation on public or private property, or b) has killed a domestic animal while off the owner's property, or c) has been previously found to be potentially dangerous, the owner having received notice of such, and the animal again aggressively bites, attacks, chases or approaches a person on the streets, sidewalks or any public ground in a menacing fashion or apparent attitude of attack, or endangers the safety of humans or domestic animals.
- F. "Domestic animals" means any animals that are usually tamed and bred for the uses of humans.
- G. "Exotic animals" means any animals that are not native to or usually found in the United States, including:
1. All nonhuman primates;
 2. All wild cats of the family Felidae and their hybrid, except for the domestic cat *Felis catus*;
 3. All species of bear;
 4. All wild carnivores of the family Canidae and their hybrid, except for the domestic dog *Canis familiaris*;
 5. Venomous reptiles and amphibians;
 6. All reticulated pythons, Burmese pythons and snakes which may reach ten feet or more in length; and
 7. All members of: Alligator (*Alligator*), Crocodile (*Crocodylus*) and Caiman (*Crocodylus*).
- H. "Guard dog" means any dog which has been trained or is represented by its owner as having been trained to protect persons and/or property by exhibiting hostility and aggressiveness to unauthorized persons. A "dangerous animal" or "potentially dangerous animal" as defined by this chapter is not a guard dog.
- I. "Livestock" means animals usually found on farms, including but not limited to horses, mules, bovine animals, sheep, goats, llamas, ostriches, and swine. Except, livestock shall not mean miniature pot bellied pigs as defined in this section.
- J. "Miniature pot bellied pig" means a type of swine commonly known as the North American Vietnamese, Chinese, or Asian pot bellied pig (*sus scrofa vittatus*) that is no more than twenty-two inches (22") in height at the shoulder and no more than one hundred fifty pounds (150) in weight.
- K. "Owner" means a person who has a right, claim, title, legal share, or right of possession to an animal or a person having lawful control, custody, or possession of an animal.

- L. "Person" means individuals, corporations, partnerships, associations, or other legal entities, and agents of those entities.
- M. "Potentially dangerous animal" means any animal that when unprovoked: a) Inflicts bites on a human or domestic animal either on public or private property, or b) chases or approaches a person on the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, or any animal with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or otherwise to threaten the safety of humans or domestic animals.
- N. "Poultry" means domestic fowl normally raised for meat or eggs, and includes, but is not limited to, chickens, turkeys, ducks, and geese.
- O. "Proper enclosure of a dangerous animal" means, while on the owner's property, a dangerous animal shall be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and to prevent the animal from escaping. Such pen or structure shall have sides secured either to a concrete floor or embedded at least six inches into the ground, shall have a secured top, and shall also provide protection from the elements for the animal.
- P. "Provocation" means taunting, tormenting, abusing, or assaulting an animal. It also means a willful trespass or other tort upon the premises occupied by the owner of an animal or upon the premises where an animal is normally kept.
- Q. "Severe injury" means any physical injury that results in broken bones or lacerations requiring multiple sutures or cosmetic surgery.
- R. "Wild animal" means an animal living in its natural state and native to the United States and not normally domesticated, raised, or bred by humans.

SECTION 2. LMC 6.02.020 AMENDED. LMC 6.02.020, Licensing, is amended to read as follows:

6.02.020 LICENSING

A. LICENSE REQUIRED

All dogs and cats over the age of six months within the City limits must be licensed by the City except:

1. Dogs and cats whose owners are nonresidents temporarily within the City;
2. Dogs and cats brought into the City for the purpose of participating in shows, exhibits, or competitions;

3. Dogs who are specially trained to assist visually impaired, hearing impaired, or otherwise physically disabled persons if the dog is in training or is actually serving as a guide or service dog as defined in Chapter 70.84 RCW, are required to be licensed; however, they are exempt from licensing fees.
4. Dogs and cats kept and intended for sale by licensed pet stores.

B. TAGS AND FEES

1. **Tags.** The Police Department or other animal control agency designated by the City Council shall issue animal licenses consisting of a metal tag with a number corresponding to the number of the application to the applicant. The applicant is required to cause the tag to be attached or fixed to the animal. The tag is not transferable.
2. **Fees.** The following fees shall be paid for licenses required under this chapter:
 - a. Spayed or neutered cats and dogs with a veterinarian's certificate or a signed affidavit (lifetime tags issued) -- Five Dollars (\$5.00).
 - b. Unspayed or unneutered cats and dogs (annual) -- Ten Dollars (\$10.00).
 - c. Replacement tags (lost) -- Two Dollars and fifty cents (\$2.50).

Licenses shall be valid from July 1st to the following June 30th. If a license is applied for after January 31st, the fee shall be one-half the amount specified above.

Any person who violates LMC 6.02.020 shall be guilty of a civil infraction and shall pay a monetary fine as follows: First offense: Twenty-five Dollars (\$25.00); Second offense: Fifty Dollars (\$50.00). Any owner who fails to respond to a notice of civil infraction as promised or to appear at a requested hearing shall be guilty of a misdemeanor and may be punished by a fine not to exceed One Thousand Dollars (\$1,000.00) and confinement not to exceed ninety (90) days. Any person who receives two (2) infractions for violations of LMC 6.02.020 within one (1) year and who subsequently violates LMC 6.02.020 shall be guilty of a misdemeanor and may, upon conviction, be punished by confinement not to exceed ninety (90) days and a fine not to exceed One Thousand Dollars (\$1,000.00).

SECTION 3. LMC 6.02.025 AMENDED. LMC 6.02.025, Certification of Dangerous Dogs, is amended to read as follows:

6.02.025 DANGEROUS ANIMALS

- 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 Fifty Thousand Dollars (\$50,000), payable to any person injured by the animal; or
 3. A policy of liability insurance, such as homeowner's insurance issued by an insurer qualified under Title 48 RCW in the amount of Fifty Thousand Dollars (\$50,000.00) payable to any person injured by the animal, insuring and indemnifying the City of Lynnwood for any personal injuries inflicted by the animal.
 4. Proof of placement 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 a One Hundred Dollar (\$100.00) annual registration fee for a dangerous animal. 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 (8') in length. The leash shall be in the physical control of a responsible 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 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 for the proper length of time, and may be euthanized; provided, however, that 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. 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.
- G. This section does not apply to guard dogs or dogs used by law enforcement officials while they are:
 - a. If guard dogs, protecting property under the conditions of LMC 6.02.050.
 - b. If used by law enforcement officials, acting in the line of duty.

Any person who violates LMC 6.02.025 shall be guilty of a gross misdemeanor and may, upon conviction, be punished by confinement not to exceed one (1) year and/or a fine not to exceed Five Thousand Dollars (\$5,000.00).

SECTION 4. LMC 6.02.030 AMENDED. LMC 6.02.030, Exotic Animals, is amended to read as follows:

6.02.030 EXOTIC ANIMALS.

The owner of an exotic animal must at all times keep the animal contained within a fence or cage sufficient to keep the animal from running at large.

Any person who violates LMC 6.02.030 shall be guilty of a misdemeanor and may, upon conviction, be punished by a fine not to exceed One Thousand Dollars (\$1,000.00).

SECTION 5. NEW SECTION. A new section is added to the Lynnwood Municipal Code which will be codified as LMC 6.02.035, Miniature Pot Bellied Pigs, and reads as follows:

6.02.035 MINIATURE POT BELLIED PIGS

Miniature pot bellied pigs are allowed to be kept within the city limits. No more than two (2) such animals per household are permitted. Owners of miniature pot bellied pigs must comply with the licensing provisions of LMC 6.02.020 and pay the fees for the license as defined therein.

SECTION 6. LMC 6.02.040 AMENDED. LMC 6.02.040, Wild Animals, is amended to read as follows:

6.02.040 WILD ANIMALS.

No person shall own any wild animal unless that person has obtained a permit from the State Game Department and/or Federal Fish and Wildlife Service; PROVIDED, that the animal control authority may allow a person to temporarily care for an infant or injured wild animal, which is native to this area and homeless, while the person acquires the necessary State and Federal Permits. Persons who obtain a permit for temporary care of a wild animal must comply with the provisions of LMC 6.02.030.

Any person who violates LMC 6.02.040 shall be guilty of a misdemeanor and may, upon conviction, be punished by a fine not to exceed One Thousand Dollars (\$1,000.00).

SECTION 7. LMC 6.02.050 AMENDED. LMC 6.02.050, Guard Dogs, is amended to read as follows:

6.02.050 GUARD DOGS.

Guard dogs shall be kept on a leash under the control of a person, or shall be contained within a building or enclosed within a fence that is at least six feet high and sufficiently sturdy to prevent the dog from reaching persons off the property. Owners shall restrain the dog in such a manner that the dog is unable to reach those persons legitimately using the normal entrance and exit to the property. The owner shall post signs in at least two conspicuous places on the property, warning that a guard dog is on the premises. The owner must indicate at the time of obtaining a dog license that the dog is a guard dog.

Any person who violates LMC 6.02.050 shall be guilty of a misdemeanor and may, upon conviction, be punished by confinement not to exceed ninety (90) days and/or a fine not to exceed One Thousand Dollars (\$1,000.00).

SECTION 8. LMC 6.02.055 REPEALED. LMC 6.02.055, Dangerous Dogs, is repealed in its entirety.

SECTION 9. LMC 6.02.060 AMENDED. LMC 6.02.060, Fees Authorized, is amended to read as follows:

6.02.060 IMPOUND AND BOARDING FEES.

The animal control authority shall be entitled to charge and collect fees as follows:

A.	Impound fees (domestic animals)	Twenty Dollars (\$20.00)
B.	Boarding fees (domestic animals per day)	Seven Dollars (\$7.00)
C.	Impound fees (livestock)	One Hundred Dollars (\$100.00)
D.	Boarding fees (livestock)	Fifteen Dollars (\$15.00)
E.	Impound fees (other animals)	Thirty Dollars (\$30.00)
F.	Boarding fees (other animals)	Ten Dollars (\$10.00)

No impound fee shall be charged for owner requested pick up, or for euthanizing an animal.

SECTION 10. LMC 6.02.070 AMENDED. LMC 6.02.070 is amended to read as follows:

A. RUNNING AT LARGE

No domestic or exotic animal, or livestock of any kind shall be permitted to run at large during any hours of the day or night, provided that this section shall not apply to dogs which are in special areas designated and posted by the Chief of Police as dog training areas so long as the regulations of the Chief of Police with respect to the use of such areas are complied with and such dogs are under the custody and control of their trainer.

B. FOUND STRAY ANIMALS

It shall be the duty of a person who takes into his possession any stray animal, not owned by him or not placed into his possession by the person having the lawful custody and control thereof, to notify the Animal Control Authority or Police at once, and to release such animal to the City officer upon demand and without any charge.

Any person who violates LMC 6.02.070 shall be guilty of a civil infraction and shall pay a monetary fine as follows: First offense: Twenty-five Dollars (\$25.00); Second offense: Fifty Dollars (\$50.00). Any owner who fails to respond to a notice of civil infraction as promised or to appear at a requested hearing shall be guilty of a misdemeanor and may be punished by a fine not to exceed One Thousand Dollars (\$1,000.00) and confinement not to exceed ninety (90) days. Any person who receives two (2) infractions for violations of LMC 6.02.070 within one (1) year and who subsequently violates LMC 6.02.070 shall be guilty of a misdemeanor and may, upon conviction, be punished by confinement not to exceed ninety (90) days and a fine not to exceed One Thousand Dollars (\$1,000.00).

SECTION 11. LMC 6.02.080 AMENDED. LMC 6.02.080 is amended by adding the following language:

Any person who violates LMC 6.02.080 shall be guilty of a civil infraction and shall pay a monetary fine as follows: First offense: Twenty-five Dollars (\$25.00); Second offense: Fifty Dollars (\$50.00). Any owner who fails to respond to a notice of civil infraction as promised or to appear at a requested hearing shall be guilty of a misdemeanor and may be punished by a fine not to exceed One Thousand Dollars (\$1,000.00) and confinement not to exceed ninety (90) days. Any person who receives two (2) infractions for violations of LMC 6.02.080 within one (1) year and who subsequently violates LMC 6.02.080 shall be guilty of a misdemeanor and may, upon conviction, be punished by confinement not to exceed ninety (90) days and a fine not to exceed One Thousand Dollars (\$1,000.00).

SECTION 12. LMC 6.02.090 AMENDED. LMC 6.02.090, Impound Procedures, is amended to read as follows:

LMC 6.02.090 IMPOUND PROCEDURES

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 the animal shall attempt to give notice to the owner the same day either by mail, 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 the 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.

D. DISPOSITION OF IMPOUNDED ANIMALS

When in the judgment of a licensed veterinarian or the Animal Control Authority 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 may find a responsible person to adopt the animal not less than fifteen 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 13. LMC 6.02.110 AMENDED. LMC 6.02.110 is amended to read as follows:

6.02.110 CONFINING ANIMALS IN SEASON

The owner or person having charge of any unspayed female animal shall confine such animal in a building or enclosed area during the period such animal is in heat. Any person who violates LMC 6.02.110 shall be guilty of a civil infraction and shall pay a monetary fine as follows: First offense: Twenty-five Dollars (\$25.00); Second offense: Fifty Dollars (\$50.00). Any owner who fails to respond to a notice of civil infraction as promised or to appear at a requested hearing shall be guilty of a misdemeanor and may be punished by a fine not to exceed One Thousand Dollars (\$1,000.00) and confinement not to exceed ninety (90) days. Any person who receives two (2) infractions for violations of LMC 6.02.110 within one (1) year and who subsequently violates LMC 6.02.110 shall be guilty of a misdemeanor and may, upon conviction, be punished by confinement not to exceed ninety (90) days and a fine not to exceed One Thousand Dollars (\$1,000.00).

SECTION 14. LMC 6.02.120 AMENDED. LMC 6.02.120 is amended by adding the following language:

Any person who violates LMC 6.02.120 shall be guilty of a misdemeanor and may, upon conviction, be punished by a fine not to exceed One Thousand Dollars (\$1,000.00).

SECTION 15. LMC 6.02.130 AMENDED. LMC 6.02.130 is amended by adding the following language:

Any person who violates LMC 6.02.130 shall be guilty of a misdemeanor and may, upon conviction, be punished by a fine not to exceed One Thousand Dollars (\$1,000.00).

SECTION 16. LMC 6.02.140 AMENDED. LMC 6.02.140, Nuisance, is amended to read as follows:

6.02.140 NUISANCE

- A. Every owner of an animal shall exercise the necessary care and control of their animal to prevent the animal from becoming a public nuisance. Making noise in violation of LMC 10.12.300(8), attacking passersby, chasing vehicles, attacking other domestic animals, depositing excretory material on property other than that of the owner, and damaging property shall be deemed a nuisance.
- B. No person shall permit a dangerous or potentially dangerous animal, or an animal which has the propensity to bite or attack humans, to run loose on or within the owner's property in such a manner as to endanger the safety of any person lawfully entering the premises.
- C. Any animal making noise in violation of LMC 10.12.300(8) in the presence of an Animal Control Officer may be immediately impounded. Provided, however, that no animal shall be impounded if it is contained within a house or other structure.
- D. Any person who violates LMC 6.02.140 shall be guilty of a civil infraction and shall pay a monetary fine as follows: First offense: Twenty-five Dollars (\$25.00); Second offense: Fifty Dollars (\$50.00). Any owner who fails to respond to a notice of civil infraction as promised or to appear at a requested hearing shall be guilty of a misdemeanor and may be punished by a fine not to exceed One Thousand Dollars (\$1,000.00) and confinement not to exceed ninety (90) days. Any person who receives two (2) infractions for violations of LMC 6.02.140 within one (1) year and who subsequently violates LMC 6.02.140 shall be guilty of a misdemeanor and may, upon conviction, be punished by confinement not to exceed ninety (90) days and a fine not to exceed One Thousand Dollars (\$1,000.00).

SECTION 17. LMC 6.02.145 AMENDED. LMC 6.02.145, Appeal - Authority, is amended to read as follows:

- A. All parties aggrieved by actions of an Animal Control Officer may appeal the action to the Commander, Bureau of Field Operations of the Lynnwood Police Department, or in the Commander's absence, to the Commander, Investigations and Services of the Lynnwood Police Department, by filing a Notice of Appeal with the Lynnwood City Police Department within five (5) days of mailing a Notice of Impoundment. All decisions by the Commander shall be in writing with a copy to the Animal Control Officer and to all parties of record.
- B. The decision of the Commander may be appealed to the Judge of the Lynnwood Municipal Court by filing an additional Notice of Appeal with the Lynnwood City Police Department within five (5) days of mailing of the Commander's decision.
- C. Such written appeal shall contain:

1. A caption reading: "Appeal of _____" giving the names of all appellants participating in the appeal;
2. A brief statement setting forth the legal interest of each of the appellants in the animal involved in the proceeding;
3. A brief statement in concise language of the specific action protested, together with any material facts claimed to support the contentions of the appellant;
4. A brief statement in concise language of the relief sought, and the reasons why it is claimed the protested action should be reversed, modified or otherwise set aside;
5. The signatures of all appellants, and their mailing addresses;
6. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

SECTION 18. LMC 6.02.147 REPEALED. LMC 6.02.147, Appeal - Procedure, is repealed in its entirety.

SECTION 19. LMC 6.02.150 AMENDED. LMC 6.02.150 is amended to read as follows:

6.02.150 HORSES ON ARTERIAL STREETS

It is unlawful for any person to ride or lead or allow any horse, mare, pony, or related animal on any principal or minor arterials as designated in the Existing Arterial Roadway System as shown in the City of Lynnwood's Comprehensive Plan as adopted April 10, 1995, and as may hereafter be amended.

SECTION 20. LMC 6.02.160 AMENDED. LMC 6.02.160 is amended by adding the following language:

Any person who violates LMC 6.02.160 shall be guilty of a civil infraction and shall pay a monetary fine as follows: First offense: Twenty-five Dollars (\$25.00); Second offense: Fifty Dollars (\$50.00). Any owner who fails to respond to a notice of civil infraction as promised or to appear at a requested hearing shall be guilty of a misdemeanor and may be punished by a fine not to exceed One Thousand Dollars (\$1,000.00) and confinement not to exceed ninety (90) days. Any person who receives two (2) infractions for violations of LMC 6.02.160 within one (1) year and who subsequently violates LMC 6.02.160 shall be guilty of a misdemeanor and may, upon conviction, be punished by confinement not to exceed ninety (90) days and a fine not to exceed One Thousand Dollars (\$1,000.00).

SECTION 21. LMC 6.02.165 ADDED. A new section, Section 6.02.165, is added to the Lynnwood Municipal Code, incorporating RCW 16.52.100, as set forth below:

6.02.165 CONFINEMENT WITHOUT FOOD AND WATER—INTERVENTION BY OTHERS.

If any domestic animal is impounded or confined without necessary food and water for more than thirty-six consecutive hours, any person may, from time to time, as is necessary, enter into and open any pound or place of confinement in which any domestic animal is confined, and supply it with necessary food and water so long as it is confined. The person shall not be liable to action for the entry, and may collect from the animal's owner the reasonable cost of the food and water. The animal shall be subject to attachment for the costs and shall not be exempt from levy and sale upon execution issued upon a judgment. If an investigating officer finds it extremely difficult to supply confined animals with food and water, the officer may impound the animal.

SECTION 22. LMC 6.02.170 REPEALED. LMC 6.02.170, Miscellaneous Regulations, is repealed in its entirety.

SECTION 23. LMC 6.02.175 ADDED. A new section, Section 6.02.175, is added to the Lynnwood Municipal Code as follows:

6.02.175 MISTREATMENT OF ANIMALS

A. POISONING OF ANIMALS

It shall be unlawful for any person to wilfully or maliciously poison any domestic animal; PROVIDED, that this section shall not apply to the killing by poison of such animal in a lawful and humane manner by the owner of the animal 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.

B. CRUELTY TO ANIMALS

1. A person is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty as defined in RCW 16.52.205, the person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal.
2. An owner of an animal is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty as defined in RCW 16.52.205, the person knowingly, recklessly, or with criminal negligence:
 - a. Fails to provide the animal with necessary food, water, shelter, rest, sanitation, ventilation, or medical attention, and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure; or

- b. Abandons the animal.
3. In any prosecution of animal cruelty in the second degree, it shall be an affirmative defense, if established by defendant by a preponderance of the evidence, that the defendant's failure was due to economic distress beyond the defendant's control.

C. DUTY WHEN STRIKING AN ANIMAL WITH A MOTOR VEHICLE

Any person who, while operating a motor vehicle, strikes an animal, shall stop at once and render reasonable assistance. The person shall make reasonable attempts to notify the owner of the animal, and shall report the accident to the animal control authority within twenty-four hours. Notwithstanding any other provision of law, this subsection shall in no way be construed to impose financial liability upon the owner of a vehicle for the injury or death of the animal stricken.

Any person who violates LMC 6.02.175 shall be guilty of a misdemeanor and may, upon conviction, be punished by confinement not to exceed ninety (90) days and/or a fine not to exceed One Thousand Dollars (\$1,000.00).

SECTION 24. LMC 6.02.180 AMENDED. LMC 6.02.180 is amended to read as follows:

- A. No person shall wilfully do the following:
 1. Prevent or hinder the impounding of any animal found in violation of the provisions of this chapter;
 2. Remove any animal from the public pound without the authority of the Chief of Police, the Animal Control Authority or the officer in charge of the pound;
 3. Remove any animal from the public pound without paying all lawful charges against the animal;
 4. Resist or obstruct the Animal Control Authority in the performance of his duties.
- B. No person shall conceal any animal or otherwise interfere with the proper enforcement of this chapter. (Ord. 1215 [part], 1981).
- C. Any person requested to identify himself to a law enforcement officer pursuant to an investigation of this Chapter has a duty to identify himself, give his current address, and sign an acknowledgment of receipt of the infraction. Any person who fails to identify himself, or to sign an acknowledgment of receipt of infraction, as described above, shall be guilty of a misdemeanor and may be punished by a fine not to exceed One Thousand Dollars (\$1,000.00) and confinement not to exceed ninety (90) days.

- D. Any person who violates LMC 6.02.180 shall be guilty of a misdemeanor and may, upon conviction, be punished by confinement not to exceed ninety (90) days and/or a fine not to exceed One Thousand Dollars (\$1,000.00).

SECTION 25. LMC 6.02.190 REPEALED. LMC 6.02.190, Penalties, is repealed in its entirety.

SECTION 26. LMC 6.02.200 REPEALED. LMC 6.02.200, Enforcement, is repealed in its entirety.

SECTION 27. LMC 6.02.185 ADDED. A new section, Section 6.02.185 is added to the Lynnwood Municipal Code as follows:


6.02.185 VIOLATIONS, PENALTIES, AND ENFORCEMENT

- A. Unless provided otherwise by law, any person violating any of the provisions of this Chapter shall be guilty of a gross misdemeanor and may be punished by a fine not to exceed Five Hundred Dollars (\$500.00) and confinement not to exceed one (1) year.
- B. Any conduct of any person violating any of the provisions of this chapter may be prosecuted by the authorities of the City by civil or criminal proceedings.
- C. Notwithstanding any other provision of law, any person whose animal is impounded is liable for all lawful costs and fees attributable to the impounding of the animal.

SECTION 28. SEVERABILITY. If any section, subsection, sentence, clause, phrase or word of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

SECTION 29. EFFECTIVE DATE. This ordinance shall take effect and be in full force five (5) days after its passage, approval and publication.


PASSED this 10th day of June, 1996, and signed in authentication of its passage this 14th day of June, 1996.


TINA ROBERTS, Mayor

ATTEST:


PAUL MENTER, Finance Director

APPROVED AS TO FORM:


JOHN WATTS, City Attorney
For
STEVEN L. GRASS, Assistant