

City of Lynnwood
JAN 27 2006
SCANNED

CITY OF LYNNWOOD

ORDINANCE NO. 2604

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, AMENDING CHAPTER 6.02 OF THE LYNNWOOD MUNICIPAL CODE RELATING TO ANIMAL CONTROL AND PROVIDING FOR SEVERABILITY AND SUMMARY PUBLICATION.

WHEREAS, the City Council has adopted Chapter 6.02 of the Municipal Code providing for animal control within city corporate boundaries; and

WHEREAS, the City Council has determined that it is in the best interests of the City to amend the City's animal control ordinance to conform to state law and to more efficiently regulate exotic and dangerous animal and the animal impound process;

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

Section 1.

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 his 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 has:
 - 1. Inflicted severe injury on a human being without provocation on public or private property; or

2. Killed a domestic animal while off the owner's property; or

3. 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 animal" means any animal which is not commonly domesticated or which is 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 10 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 22 inches in height at the shoulder and no more than 150 pounds 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:

1. Inflicts bites on a human or domestic animal either on public or private property; or
2. 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 animals.

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 injury.

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.

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): \$5.00; provided, however, the fee for lifetime tags may be waived by the city if an owner of a cat or dog has their animal spayed or neutered during spay/neuter promotional days designated by the animal control authority.

b. Unspayed or unneutered cats and dogs (annual): \$50.00.

c. Replacement tags (lost): \$2.50.

Licenses shall be valid from July 1st to the following June 30th.

Any person who violates this section shall be guilty of a civil infraction and shall pay a monetary fine as follows: first offense, \$25.00; second offense, \$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 \$1,000 and confinement not to exceed 90 days. Any person who receives two infractions for violations of this section within one year and who subsequently violates this section shall be guilty of a misdemeanor and may, upon conviction, be punished by confinement not to exceed 90 days and fine not to exceed \$1,000.

6.02.025 Dangerous animal.

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, as provided in Chapter 16.08 RCW, 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 \$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 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:

1. If guard dogs, protecting property under the conditions of LMC 6.02.050;
2. If used by law enforcement officials, acting in the line of duty.

H. Once declared a dangerous animal the owner shall comply with the provisions of this section within thirty (30) days, unless an extension for good cause is granted by the animal control authority.

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.

6.02.030 Exotic animals.

No person shall possess, breed, import, export, barter, buy, sell, or attempt to buy or sell an animal defined as "exotic" in LMC 6.02.015(G).

Any person who violates this section shall be guilty of a misdemeanor and may, upon conviction, be punished by a fine not to exceed \$1,000.

6.02.035 Miniature pot-bellied pigs.

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

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 this section shall be guilty of a misdemeanor and may, upon conviction, be punished by a fine not to exceed \$1,000.

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 this section shall be guilty of a misdemeanor and may, upon conviction, be punished by confinement not to exceed 90 days and/or a fine not to exceed \$1,000.

6.02.055 Dangerous dogs.

Repealed by Ord. 2091.

6.02.060 Impound and boarding fees.

The animal control authority shall be entitled to charge fees under this chapter as follows:

- A. Impound fees (domestic animals): \$50.00;
- B. Boarding fees (domestic animals per day): \$12.00;
- C. Impound fees (livestock): \$100.00;
- D. Boarding fees (livestock): \$15.00;
- E. Impound fees (other animals): \$30.00;
- F. Boarding fees (other animals): \$12.00.

No fee shall be charged for owner-requested pick up of deceased remains.

6.02.070 Running at large prohibited.

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 this section shall be guilty of a civil infraction and shall pay a monetary fine as follows: first offense, \$25.00; second offense, \$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 \$1,000 and confinement not to exceed 90 days. Any person who receives two infractions for violations of this section within one year and who subsequently violates this section shall be guilty of a misdemeanor and may, upon conviction, be punished by confinement not to exceed 90 days and a fine not to exceed \$1,000.

6.02.080 Public parks, beaches and/or playgrounds.

Unless otherwise directed by the director of parks and recreation, it is unlawful for any person to ride, lead or otherwise permit any animal to be within or on any public park, beach or playground within the city of Lynnwood, whether owned by, leased or otherwise under the direct supervision of the city, provided, however, the director of parks and recreation is authorized to post a notice or notices of specific areas in any particular public park, beach or playground within the city of Lynnwood where any specific type of animals may be permitted under such circumstances as may be required by the director of parks and recreation. The notices shall be placed in a conspicuous place or places at each drive-in or pedestrian access provided by the city to such public parks, beaches and/or playgrounds. In the event the director of parks and recreation so determines and posts notices as provided in this section, he shall maintain a list of the parks, beaches and/or playgrounds, shall file a copy of the same with the finance director, and the list shall be open and available for public inspection at all business hours of the finance director.

Any person who violates this section shall be guilty of a civil infraction and shall pay a monetary fine as follows: first offense, \$25.00; second offense, \$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 \$1,000 and confinement not to exceed 90 days. Any person who receives two infractions for violations of this section within one year and who subsequently violates this section shall be guilty of a misdemeanor and may, upon conviction, be punished by confinement not to exceed 90 days and a fine not to exceed \$1,000.

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 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 an animal is impounded and taken to PAWS more than twice during a twelve (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 and shall provide written proof of said process to the animal control authority.

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 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.

6.02.100 Animal bites to be reported.

The owner of a domestic animal that bites another, or any person who is bitten by an animal, or any doctor, veterinarian or hospital which has information that a person or domestic animal was bitten by an animal shall promptly report to the animal control authority and said animal shall thereupon be securely quarantined at the direction of the animal control authority for a period of 10 days. At the discretion of the animal control authority, such quarantine may be on the premises of the owner, at the shelter designated as the city's animal shelter, or, at the owner's option and expense, in a veterinary hospital of the owner's choice. In the cases of animals whose ownership is not known, such quarantine shall be at the shelter designated as the city's animal shelter or veterinary hospital.

Any person who fails to report as required by 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.

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 dog is in heat. Any person who violates this section shall be guilty of a civil infraction and shall pay a monetary fine as follows: first offense, \$25.00; second offense, \$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 \$1,000 and confinement not to exceed 90 days. Any person who receives two infractions for violations of this section within one year and who subsequently violates this section shall be guilty of a misdemeanor and may, upon conviction, be punished by confinement not to exceed 90 days and a fine not to exceed \$1,000.

6.02.120 Muzzling and vaccination.

Whenever it becomes necessary to safeguard the public from the dangers of rabies or other communicable disease, the city council, if it deems it necessary for the public's health and safety, shall pass a resolution ordering every person owning or keeping the infected-type animal to confine it securely on his premises unless such animal has a muzzle of sufficient strength to prevent its biting any person. Any unmuzzled animal running at large during the time of the proclamation shall be seized and impounded. All animals noticeably infected with rabies shall be killed by the animal control authority or by any police officer, without notice to the owner. Animals impounded during the first two days of such proclamation shall, if claimed within five days, be released to the owner, unless infected, upon payment of the fees and charges provided for in this chapter. If unclaimed after that period, such animal may be summarily destroyed. The resolution may also provide for and require the vaccination of all dogs with antirabies vaccine, or other appropriate vaccines in the case of animals or diseases.

Any person who violates this section shall be guilty of a misdemeanor and may, upon conviction, be punished by a fine not to exceed \$1,000.

6.02.130 Maximum number of dogs and/or cats permitted.

No person shall keep more than three cats or three dogs, or any combination of cats and dogs exceeding three in number that are over six months of age on any premises in the city.

Any person who violates this section shall be guilty of a misdemeanor and may, upon conviction, be punished by a fine not to exceed \$1,000.

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 (B)(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(B)(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 this section shall be guilty of a civil infraction and shall pay a monetary fine as follows: first offense, \$25.00; second offense, \$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 \$1,000 and confinement not to exceed 90 days. Any person who receives two infractions from violations of this section within one year and who subsequently violates this section shall be guilty of a misdemeanor and may, upon conviction, be punished by confinement not to exceed 90 days and a fine not to exceed \$1,000.

6.02.145 Appeal – Authority.

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 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 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 official 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.

6.02.147 Appeal – Procedure.

Repealed by Ord. 2091.

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.

6.02.160 Owner responsibility to remove animal manure.

Every person who owns or who has under his control or care any animal shall be responsible for picking up and removing immediately any offal or manure left by any such animal upon any public place in the city or upon any private property not owned by him or her.

Any person who violates this section shall be guilty of a civil infraction and shall pay a monetary fine as follows: first offense, \$25.00; second offense, \$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 \$1,000 and confinement not to exceed 90 days. Any person who receives two infractions for violations of this section within one year and who subsequently violates this section shall be guilty of a misdemeanor and may, upon conviction, be punished by confinement not to exceed 90 days and a fine not to exceed \$1,000.

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 36 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.

6.02.170 Miscellaneous regulations.

Repealed by Ord. 2091.

6.02.175 Mistreatment of animals.

A. Poisoning of Animals. It shall be unlawful for any person to willfully 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 24 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 this section shall be guilty of a misdemeanor and may, upon conviction, be punished by confinement not to exceed 90 days and/or a fine not to exceed \$1,000.

6.02.180 Interference.

A. No person shall willfully 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.

5. Remove a microchip implanted in an animal by the City or other authority for identification purposes.

B. No person shall conceal any animal or otherwise interfere with the proper enforcement of this chapter.

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 \$1,000 and confinement not to exceed 90 days.

D. Any person who violates this section shall be guilty of a misdemeanor and may, upon conviction, be punished by confinement not to exceed 90 days and/or a fine not to exceed \$1,000 (Ord. 2091 § 23, 1996;

6.02.185 Violations, penalties, and enforcement.

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 \$500.00 and confinement not to exceed one year.

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.

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.

6.02.190 Penalties.

Repealed by Ord. 2091.

6.02.200 Enforcement.

Repealed by Ord. 2091.

6.02.210 Administration.

The city administrative officer is authorized to develop whatever administrative regulations as may be necessary to implement the provisions of this chapter, including procedures for animal enumerations and animal shelter operations.

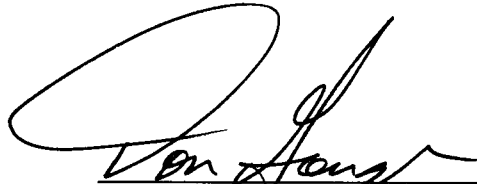
6.02.220 Nonliability.

Nothing contained in this chapter is intended to be, nor shall be, construed to create or form the basis for any liability on the part of the city or its officers, employees or agents, for any injury or damage resulting from the failure of any person to comply with the terms of this chapter, or by reason or in consequence of any omission in connection with the implementation or enforcement of this chapter on the part of the city by its officers, employees or agents.

Section 2. 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 3. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

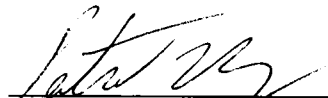
PASSED BY THE CITY COUNCIL, this 9th day of January, 2006 and signed in authentication of its passage this 10th day of January, 2006.



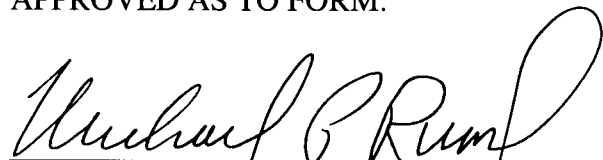
DON GOUGH, MAYOR

ATTEST/AUTHENTICATED:

APPROVED AS TO FORM:



PATRICK DUGAN
Interim Finance Director



MICHAEL RUARK
City Attorney