

ORDINANCE NO. 1447
CITY OF LACEY

AN ORDINANCE RELATING TO PET ANIMALS, AMENDING SECTIONS 2.30.010, 2.30.090, 7.04.050 AND 7.04.070, ALL OF THE LACEY MUNICIPAL CODE, AND APPROVING A SUMMARY FOR PUBLICATION.

WHEREAS, an Intergovernmental Agreement for Joint Animal Services Operations was executed on November 16, 1992 between the City of Lacey, the City of Olympia, the City of Tumwater, and Thurston County for the purposes of formalizing a process whereby animal protection and control activities could be provided for the parties; and

WHEREAS, said Agreement was amended on October 1, 1997, May 23, 2000, and December 19, 2002; and

WHEREAS, each of the jurisdictions has nearly identical ordinances outlining the regulations and penalties for keeping dogs, cats and other pet animals; and

WHEREAS, the animal services director has requested proposed changes to said ordinances; and

WHEREAS, the Joint Animal Services Commission (JASCOM) has reviewed the proposed changes; and

WHEREAS, the City Council finds it is in the best interest of the citizens of Lacey to adopt the jointly proposed changes.

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

Section 1. Section 2.30.010 of the Lacey Municipal Code is hereby amended to read as follows:

2.30.010 Creation of land use hearings examiner.

Pursuant to RCW Chapter 35A.63, the office of land use hearings examiner, hereinafter referred to as "examiner," is created. The examiner shall interpret, review and implement land use regulations as provided in this chapter or by other ordinance. In addition, the examiner shall hear appeals relating to potentially dangerous or dangerous dogs pursuant to Section 7.04.070 of this code and the city's construction codes as described in Section 14.18.030 of this code. Unless the context requires otherwise, the term examiner, as used in this chapter, shall include deputy examiner and examiners pro tem.

Section 2. Section 2.30.090 of the Lacey Municipal Code is hereby amended to read as follows:

2.30.090 Powers of the examiner.

The examiner shall receive and examine all available information, conduct public hearings and prepare a record thereof and enter decisions as provided for herein:

A. The decision of the hearings examiner on the following matters shall be final unless such decision is appealed to the city council pursuant to Section 2.30.160 of the Lacey Municipal Code:

1. Appeals of decisions made pursuant to limited administrative review as defined in Section 1.030 of the City of Lacey Development Guidelines and Public Works Standards;

2. Appeals of decisions made pursuant to full administrative review as defined in Section 1.030 of the City of Lacey Development Guidelines and Public Works Standards;

3. Variance requests;

4. Preliminary plat approval extension requests;

B. The decision of the hearings examiner on the following matters shall constitute a recommendation to the city council:

1. Preliminary plat applications;

2. Preliminary plat modification requests;

3. Shoreline substantial development, shoreline variance and shoreline conditional use permits and permit revisions;

4. Planned residential development applications;

5. Conditional use permit applications.

C. The decision of the hearings examiner on any matters relating to potentially dangerous or dangerous dogs pursuant to Section 7.04.070 of this code or the duties described in Chapter 14.18.030 of this code for the building construction and life safety codes shall be final. Appeals of such determinations by the city hearings examiner shall be appealable to Thurston County Superior Court. An appeal of the hearings examiner decision must be filed with Thurston County Superior Court within twenty calendar days from the date the hearings examiner decision was mailed to the person to whom the Notice of Civil Penalty was directed.

Section 3. Section 7.04.050 of the Lacey Municipal Code is hereby amended to read as follows:

7.04.050 Regulations and violations relating to pet animals.

Any person who harbors, keeps, possesses, maintains or has temporary custody of a pet animal shall be responsible for the behavior of such animal whether the person knowingly permits the behavior or not. Such person shall violate the terms of this chapter if:

A. Pet animal at large. Such person's pet animal is at large as defined in Section 7.04.030.D.; provided, however, this section shall not prohibit the owner and pet animal from participating in an organized show or training, exercise or hunting session in locations designated and authorized for that purpose. A pet animal at large is a civil infraction.

B. Nuisance pet animal. Such person's pet animal constitutes a nuisance pet animal as defined in Section 7.04.030.T. Nuisance pet animal is a civil infraction.

C. Pet animal on public property. When such person's pet animal is on public property including but not limited to, a public park, beach or school ground; and

1. Not on a leash held by a person who is able to maintain physical control unless on fenced areas of public property specifically designated by the city of Lacey as not requiring a leash; or
2. Proper safeguards have not been taken to protect the public and property from injury or to damage from said animal; or
3. Is in violation of additional specific restrictions which have been posted. Such restrictions shall not apply to guide dogs for the visually impaired or service animals for the physically handicapped where being off leash is necessary to the service.

Pet animal on public property is a civil infraction.

D. Injury to a person or animal. Such person's pet animal, domestic or exotic animal causes injury to a person or animal (see also potentially dangerous dog or dangerous dog, Section 7.04.070). Injury to a person or animal is a misdemeanor.

E. Failure to possess removal equipment or to remove fecal material. Such person

1. Fails to possess on public property the equipment, or material necessary to remove animal fecal material when accompanying a pet animal, or
2. Fails to remove animal fecal matter when accompanying an animal off the owner's property. On public property, such person shall possess and use the

equipment or material necessary to remove animal fecal material. Failure to remove fecal material is a civil infraction.

F. Failure to sterilize an adopted pet animal. Such person, when adopting a pet animal from the Animal Services Shelter, fails to have the pet sterilized within the time period specified in the written agreement, unless specifically recommended by a veterinarian in writing, or in cases of verifiable placement within a governmental law enforcement agency. Failure to sterilize an adopted pet animal is a civil infraction.

G. Failure to provide humane care. Such person fails to provide a pet animal with humane care as defined in Section 7.04.030.M. Failure to provide humane care is a misdemeanor.

H. Failure to meet terms of quarantine. Such person fails to accept or to meet the terms of a quarantine notice served pursuant to Thurston County Health Department regulation after an animal has bitten a human. Failure to meet terms of quarantine is a misdemeanor.

I. Menacing Animal. Such person knowingly keeps or harbors any animal which engages in menacing behavior.

A violation of this section shall be deemed a civil infraction.

Section 4. Section 7.04.070 of the Lacey Municipal Code is hereby amended to read as follows:

7.04.070 Potentially dangerous dog or dangerous dog.

A. Classification. The Animal Services Director or designee shall have authority to classify potentially dangerous dogs and dangerous dogs. The authority to classify an animal as potentially dangerous or dangerous is in addition to any civil or criminal penalty as set forth herein. The Animal Services Director may find and declare an animal potentially dangerous if there is reasonable cause to believe that the animal's action falls within the descriptions which follow. The finding must be based upon the written complaint of a person who has pertinent information and who is willing to testify that the dog has acted in a manner which may cause it to be classified as a dangerous dog or a potentially dangerous dog, and one of the following applies:

1. Reports on file with Animal Services show previous aggressive behavior by the dog; or
2. Actions of the dog have been witnessed by any Animal Services Officer or law enforcement officer; or
3. Other substantial evidence of reasonable cause exists.

B. Actions resulting in designation. The following actions may result in the designation as a potentially dangerous dog or dangerous dog.

- 1. A dog shall be declared potentially dangerous if, unprovoked, it:**
 - a. Inflicts a bite or bites on a human or a pet or domestic animal either on public or private property; or**
 - b. Chases or approaches a person upon the streets, sidewalks or any public grounds, or behaves in a menacing manner or assumes an apparent attitude of attack; or**
 - c. Has a known propensity to attack unprovoked, or to cause injury or otherwise to threaten the safety of humans or pet or domestic animals.**

- 2. A dog shall be declared dangerous when, according to the records of Animal Services, the dog has:**
 - a. Inflicted severe injury or substantial bodily harm on a human being without provocation on public or private property; or**
 - b. Killed a pet or domestic animal without provocation while off the owner's or keeper's property; or**
 - c. Aggressively bitten, attacked or endangered the safety of humans or pet or domestic animals after previously having been found to be potentially dangerous, and the owner or keeper has received written warning.**

- 3. A dog shall not be declared potentially dangerous or dangerous if:**
 - a. The threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the property occupied by the owner or keeper of the dog, or**
 - b. The person was tormenting, abusing or assaulting the dog or has, in the past, been observed or reported to have tormented, abused or assaulted the dog, or**
 - c. The person was committing or attempting to commit a crime; or**
 - d. Another pet animal or domestic animal has entered the property of the owner of the dog without invitation; or**
 - e. The dog, when on a leash, is responding to attack by another pet or domestic animal whether on or off the owner's property.**

C. Declaration as potentially dangerous or dangerous dog.

1. **Notice of Declaration.** The declaration of a dog as potentially dangerous or dangerous shall be in writing and shall be served on the owner or keeper in one of the following methods with a copy to the complaining citizen:

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

b. Personally; or

c. If the owner or keeper cannot be located by one of the first two methods, by publication in a newspaper of general circulation as designation in the Lacey Municipal Code 1.08.010.

2. **Contents of Declaration.** The declaration shall state at least:

a. The description of the dog;

b. The name and address of the owner or keeper of the dog;

c. The whereabouts of the dog if it is not in the custody of the owner or keeper;

d. The facts upon which the declaration of potentially dangerous or dangerous is based;

e. The availability of a review of the declaration in case the person objects to the declaration, if a written request for a review is made within ten days of mailing the declaration or the date of publication, if the publication was published;

f. The availability of an appeal of the declaration to the city's hearings examiner, if a written request for such an appeal is filed with the director within ten days after receipt of the written findings pursuant to the review of the declaration.

g. The restrictions placed on the dog as a result of the declaration of potentially dangerous or dangerous;

h. The penalties for violation of the restriction, including the possibility of destruction of the dog, costs of confinement and control of the animal, and imprisonment or fining of the owner or keeper.

3. **Objection to Declaration.** If the owner or keeper of the dog or the complaining citizen wishes to object to the declaration of a dog as potentially dangerous or dangerous; they may, within ten days of receipt of the declaration, or within ten days of publication of the declaration pursuant to subsection C(1)(c). of this section , request a review of the declaration with the Animal Services Director. The review will be scheduled by the director or designee

within a reasonable time after receipt of the request for review. Pending the review, the owner or keeper of such dog shall comply with any restriction specified in the declaration.

4. Review of Declaration.

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

b. If the director finds sufficient evidence to support the declaration the director may impose the same or different restrictions on the dog.

c. The decision of the director to rescind the declaration or to affirm the declaration as potentially dangerous or dangerous, and any resulting restrictions shall be stated in a document containing written findings sent to the owner or keeper of the dog via regular and certified mail, return receipt requested, or delivered in person to the owner. A copy of such document shall be provided to the complaining citizen in the same manner.

5. Appeal of Declaration. After the Animal Services Director's review of the declaration, the owner or keeper of a dog declared to be potentially dangerous or the complaining citizen may appeal the declaration to the city's hearings examiner pursuant to the provisions of Chapter 2.30 LMC and Section 1D "Appeals" of the Development Guidelines and Public Work Standards. A written request for such an appeal shall be filed with the director within ten days after receipt of the written findings as specified in subsection (C)(4)(c) of this section.

- a. In addition to any other requirements, the written appeal shall contain the following:
 - i. A brief statement as to how the appellant is significantly affected by or interested in the decision of the Director;
 - ii. A brief statement of the appellant's issues on appeal, noting specific exceptions and objections to the declaration;
 - iii. The relief requested, such as reversal of the declaration;
 - iv. Signature, address, and phone number of the appellant, and name and address of appellant's designated representative, if any.
- b. Except as provided in this Chapter, the appeal shall proceed in accordance with the provisions of Chapter 2.30 LMC and Section 1D "Appeals" of the Development Guidelines and Public Work Standards.
- c. Notice of the appeal hearing shall be mailed to the appellant's address as listed on the written appeal.
- d. At the hearing, the scope of evidence and the scope of review shall be de novo.

- e. The burden shall be on the animal control authority to prove, by a preponderance of the evidence, that the animal is a dangerous animal or potentially dangerous animal as defined in this Chapter.
- f. The Hearings Examiner shall render a decision on the appeal within 30 calendar days following the conclusion of all testimony and hearings and closing of the record unless a longer period of time is agreed to by the parties. The Hearings Examiner may affirm, reverse or modify the decision of the Animal Services Director.
- g. The decision of the Hearings Examiner shall be considered final. Appeals of decisions by the city hearings examiner shall be appealable to Thurston County Superior Court.

D. Control and confinement of potentially dangerous or dangerous dogs includes:

1. Potentially dangerous dogs

- a. Must be securely leashed and under the control of a person physically able to restrain and control the animal when away from the property of the owner or keeper; or
- b. While on the property of the owner or keeper must be securely restrained and controlled by means of a physical device or structure such as a tether, trolley system or other physical control device or any structure made of materials strong enough to adequately and humanely confine the dog in a manner which prevents it from escaping the property; and
- c. Must be kept in conformance with other restrictions which may be set forth in the notice classifying the dog as potentially dangerous.

2. Dangerous dogs

- a. Must be securely muzzled and leashed and under the control of a person physically able to control the dog if the dog is away from the property of the owner or keeper; or
- b. While on the property of the owner or keeper, the dog must be securely confined inside a locked building, kennel, pen, or other structure having secure sides, bottom, and top, suitable to prevent the entry of young children and designed to prevent the animal from escaping; and
- c. Must be kept in conformance with other restrictions which may be set forth in the declaration classifying the dog as dangerous.
- d. The owner or keeper of a dog designated as dangerous will be required to obtain a certificate of registration as a dangerous dog pursuant to the provisions of Subsection 7.04.070.E of the Lacey Municipal Code.

E. Certificate of registration as dangerous dog. The Animal Services Director shall issue a certificate of registration to the owner or keeper of a dangerous dog if the owner or keeper presents sufficient evidence of:

- 1. A proper enclosure to confine the dog, which meets the requirements of Subsection 7.04.070.D of the Lacey Municipal Code, and the posting of the property with a clearly visible warning sign that there is a dangerous dog on the property; and**
- 2. A surety bond issued by a surety insurer qualified under the Revised Code of Washington Chapter 48.28, in a form acceptable to the Animal Services Director in the sum of at least \$250,000, payable to any person injured by the dangerous dog, or a policy of liability insurance issued by an insurer qualified under Revised Code of Washington Title 48 in the amount of at least \$250,000, insuring the owner or keeper for any injuries inflicted by the dangerous dog; and**
- 3. Such other identifying information as may be required by the Animal Services Director; and**
- 4. Certification that the owner or keeper is aware of and understands the nature of the dog and the provisions of the law which apply to it; and**
- 5. Payment of an annual registration fee for a dangerous dog in the sum of \$75, which shall be in addition to the annual license fee.**

F. Violations following declaration of potentially dangerous or dangerous dog penalties.

1. Any potentially dangerous or dangerous dog which is in violation of the restrictions contained in this section or of restrictions imposed as part of declaration of potentially dangerous or dangerous dog, may be seized and impounded at the expense of the dog owner or keeper. The owner or keeper must pay the costs of confinement and control. The director or his/her designee must serve notice upon the dog owner or keeper in person or by regular and certified mail, return receipt requested, specifying the reason for the impoundment of the dangerous dog, that the owner or keeper is responsible for payment of the costs of impoundment, and that the dog will be euthanized if the deficiencies for which the dog was impounded are not corrected within twenty days, and specifying the appeal procedure for a decision to destroy the animal. The animal control authority shall destroy the impounded dangerous dog in an expeditious and humane manner if any deficiencies required by this subsection are not corrected within twenty days of notification. The appeal procedure for a decision to euthanize the animal is as follows:

- a. The owner or keeper of a dog that will be euthanized according to the provisions of this section may appeal that decision to the Hearings**

Examiner. The owner or keeper must submit a written request for an appeal to the director within ten days of receipt of the notice referenced in this subsection.

b. The owner or keeper shall be notified of the time and place for the appeal. Failure to appear at the specified time will result in an order by the Hearings Examiner affirming the director's decision.

c. The Hearings Examiner may affirm, reverse or modify the decision of the director. The decision of the Hearings Examiner shall be sent to the owner or keeper by regular and certified mail, return receipt requested.

2. Violation of the provisions of this section relating to keeping, securing or confining of potentially dangerous dogs shall constitute a misdemeanor, unless state law provides for a higher penalty. In addition, the person's potentially dangerous dog may be impounded by Animal Services, at the discretion of the Director of Animal Services, or his or her designee.

3. Violation of the provisions of this section relating to keeping, securing or confining of dangerous dogs shall constitute a gross misdemeanor, unless state law provides for a higher penalty. In addition, the person's dangerous dog may be impounded by Animal Services, at the discretion of the Director of Animal Services, or his or her designee.

G. **Other Dangerous Pet Animals.** The Animal Services Director or designee shall have authority to classify other pet animals as dangerous under the same criteria as used in Section 7.04.070.A for dogs. Such designation will be based on specific actions by the animal such as those noted in Section 7.04.070.B and the Animal Services Director or designee shall have authority to require the owner or keeper of such pet animal to take certain actions to control or confine the pet animal. Once a pet animal has been declared potentially dangerous or dangerous, any violations of the provisions of this section will be handled in the same manner as violations under Section 7.04.070.F.

Section 5. SEVERABILITY. If any section, sentence, clause or phrase of this ordinance should be held to be invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 6. CORRECTIONS. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance

numbering, section/subsection numbers and any references thereto.


Section 7. The Summary attached hereto is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY,
WASHINGTON, at a regularly-called meeting thereof, held this 6th day of
November, 2014.


CITY COUNCIL

By: 
Mayor

Approved as to form:


City Attorney

Attest:


City Clerk

**SUMMARY FOR PUBLICATION
ORDINANCE NO.1447
CITY OF LACEY**

The City Council of the City of Lacey, Washington, passed on November 6, 2014, Ordinance No. 1447, entitled "AN ORDINANCE RELATING TO PET ANIMALS, AMENDING SECTIONS 2.30.010, 2.30.090, 7.04.050 AND 7.04.070, ALL OF THE LACEY MUNICIPAL CODE, AND APPROVING A SUMMARY FOR PUBLICATION."

The main points of the Ordinance are described as follows:

- 1. The Ordinance amends the regulations relating to pet animals on public property.**
- 2. The Ordinance amends the procedures for appealing the declaration of a dog as potentially dangerous or dangerous.**
- 3. The Ordinance approves this Summary for Publication.**

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

Published: November 10, 2014.