

ORDINANCE NO. 095-044

AN ORDINANCE repealing Chapter 6.04 of the Tumwater Municipal Code as currently enacted and replacing it with a new Chapter 6.04 as more particularly set forth herein.

WHEREAS, the Joint Animal Services Commission has proposed the foregoing language to be adopted uniformly by Thurston County and the Cities of Olympia, Lacey and Tumwater; and

WHEREAS, animal control is a concern to all citizens; and

WHEREAS, the last revision to any animal regulation by animal services was adopted in 1982; and

WHEREAS, since 1982 changes in population, increased calls to animal control, issues of control of cats, ownership of exotic animals, and attention to the environment have made this amendment necessary.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUMWATER, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 6.04 of the Tumwater Municipal Code is hereby repealed in its entirety and replaced with Sections 6.04.010 through 6.04.080 as set forth below:

6.04.010 Purpose.

This chapter is enacted for the purpose of regulating the keeping of dogs, cats and other animals within the city of Tumwater.

6.40.020 Enforcement.

The Animal Services Director, his/her designees, and other officers as defined in section 6.10.030(0), are hereby authorized and delegated the responsibility for enforcement of laws set forth in this code and in chapters 16.08 and RCW 16.52, including the issuance of misdemeanor citations and notices of infractions.

6.04.030 Definitions.

- A. **“Abandon”** means the act of leaving a pet animal without humane care in such a way the health and safety of the animal is imperiled.
- B. **“Animal”** means any nonhuman mammal, bird, reptile, or amphibian.
- C. **“Animal Services”** means the agency designated to enforce this ordinance and operate a shelter facility designated or recognized by the cities of Lacey, Olympia and Tumwater and Thurston County for the purpose of impounding, caring for, placing through adoption, returning to owners and euthanizing pet animals.
- D. **“At large”** means any pet animal that is not in the physical presence or control of an owner or keeper or is under the following circumstances:

1. when a dog, licensed or not, is found off the premises or outside the vehicle of the owner and not under control of a person by means of a leash, carrier or demonstrated voice command; or
 2. for the purpose of this section, the dog is presumed not to be under control and to be at large if the person purporting to exercise control is unable to immediately cause the dog to heel by giving the appropriate voice command; or
 3. when an unleashed dog interferes with pedestrian or vehicular movement or causes affront or alarm to a person or if injury, damage or trespass has been caused by the dog; or
 4. when a cat, licensed or not, is on property where the property owner or tenant objects to the presence of the cat and has humanely trapped or otherwise contained the cat.
- E. **“Dangerous dog”** means a dog that according to the records of Animal Services has committed serious offenses as more fully set for in Section 6.04.070.
- F. **“Domestic animal”** means an animal other than a pet animal which may or may not be used as a food source such as, but not limited to, a rabbit, chicken, goat, sheep, cow or horse.
- G. **“Euthanasia”** means the humane killing of an animal.
- H. **“Exotic animal”** means an animal, such as, but not limited to, venomous or constrictor type reptiles and primates.
- I. **“Harbors, keeps, possesses, or maintains a pet animal”** means providing care, shelter, protection, refuge, food, or nourishment in such manner as to influence the behavior of the animal; or, treating the animal as living at one’s premises or property.
- J. **“Humane care”** means care of an animal that includes, providing necessary food, water, shelter, rest, sanitation, ventilation, space and medical attention in a way that the health and safety of the animal is not imperiled.
- K. **“Impound”** means to take control of any animal pursuant to the terms of this chapter.
- L. **“Leash”** means a cord, thong or chain by which a dog is controlled by the person accompanying it.
- M. **“License”** means the dog, cat or other pet animal license issued for registration and identification.
- N. **“Nuisance pet animal”** means a pet animal that:
1. damages or destroys landscaping or property of another person, including destruction of wildlife that had been purposefully attracted to the person’s property, or
 2. soils or defecates on public or private property other than the owner’s unless, such waste is immediately removed and properly disposed of by the owner of the pet animal, or

3. causes unsanitary, dangerous, or offensive conditions, or
 4. is a female dog or cat in heat not confined within a structure to prevent access male dogs or cats except for planned breeding, or
 5. chases people or vehicles, or molests or interferes with person or other animals on public or private property other than the owner's property, or
 6. habitually or continually disturbs the peace and quiet of any individual or neighborhood by barking, whining, howling or making any other noise; or
 7. trespasses in private property and the property owner or tenant supplies a written complaint to Animal Services, and, in the case of a cat, physically contains the cat.
- O. **"Officer"** means any Animal Services officer, police officer, or other commissioned person designated by the city of Tumwater to issue citations, pick up, restrain, impound, place, or dispose of animals or give notice for any other acts, duties or functions prescribed by this chapter or other chapters relating to pet animals.
- P. **"Owner"** means any person who harbors, keeps, possesses or maintains a pet animal, or who encourages a pet animal to remain about their premises for a period of 14 consecutive days or more, or the person named on the license/registration record of any animal as the owner. The parent or guardian of an owner under eighteen (18) years of age shall be deemed the owner for the purposes of this chapter.
- Q. **"Pet animal"** means any species of wild or domestic animal sold or retained for the purpose of being kept for pleasure, companionship or utilitarian purposes and not kept as a food source.
- R. **"Potentially dangerous dog"** means a dog that according to the records of Animal Services has committed serious offenses as more fully set forth in Section 6.04.070.
- S. **"Restrained"** means secured by a leash and under physical control of a person with the strength and judgment to handle the animal, or tethered to a stationary object which keeps the animal confined to the pet owner's property.
- T. **"Severe injury"** means any physical injury that results in broken bones or lacerations requiring sutures or cosmetic surgery.
- U. **"Sterilized"** means the animal is surgically rendered incapable of reproduction by means of castration or an ovariohysterectomy.

6.04.040 Licensing and Registration Requirements.

- A. **Failure to license a pet animal.** Except as otherwise provided in this chapter, it is unlawful for any person to own, keep or have control of any dog or cat in the city of Tumwater unless the person has procured a license. Failure to license a pet animal is a class 4 civil infraction.
- B. **Issuance of License Tag.** Animal Services or agents thereof shall provide an appropriate identification tag for each dog or cat licensed to persons applying, upon payment of the appropriate license fee. It shall be the responsibility of the owner of

a dog to keep a collar or harness on the animal with the license tag firmly attached if the animal is off the owner's property. For cats only, a microchip may substitute if a collar is considered a hazard.

- C. **Supplemental identification.** Tattooing or Microchip implantation are acceptable auxiliary means of identification but do not replace the license.
- D. **Lack of authorized and current tag.** A dog or cat without an authorized and current license tag may be impounded, except as otherwise set forth in this chapter.
- E. **Annual License Fees.** License fees shall be established by resolution of the city council.
- F. **Date due.** All licenses granted under this chapter shall be valid for one year, the licensing year commencing on January 1 and running through December 31. Cat licenses shall not be transferable from one pet animal to another.
- G. **Licenses Nontransferable.** Licenses shall not be transferable from one pet animal to another.
- H. **Tag Removal Unlawful.** It is unlawful for any person to remove a tag from any pet animal, or to obliterate any tattoo or microchip registered under this chapter without the permission of the owner or issuing authority other than in a medical emergency. A violation of this provision shall be a gross misdemeanor.
- I. **Kennel or Cattery Permit.** A permit for a kennel or cattery, as defined in the zoning ordinance, may be granted for those zones where such use is not prohibited.
- J. **Exotic Animals.** Owners of constrictor type reptiles over 8 feet in length, venomous reptiles, and primates are required to annually register such animals with Animal Services by completing a form provided by Animal Services. Failure to register such animals shall be a misdemeanor.

6.04.050 Regulations and Violations Relating to Pet Animals.

Any person who harbors, keeps, 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. **Dog at large.** Such person's dog is at large as defined in Section 6.04.030(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.
- B. **Nuisance pet animal.** Such person's pet animal constitutes a nuisance pet animal as defined in Section 6.040.030(N). Nuisance pet control is a class 4 infraction.
- C. **Pet animal on public property.** Such person's pet animal is on public property such as a public park, beach or school ground and not on a leash held by a person who is able to maintain physical control, or proper safeguards have not been taken to protect the public and property from injury or damage from said animal, or 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 or public property specifically designated by the city of Tumwater, as not requiring a leash. Pet animals on public property is a class 4 infraction.

- D. **Injury to a person or animal.** Such person's pet animal causes injury to a person or domestic or pet animal (see also potentially dangerous dog or dangerous dog, Section 6.04.070). Injury to a person or animal is a misdemeanor.
- E. **Failure to remove fecal material.** Such person (1) fails to possess and use the equipment or material necessary to remove animal fecal matter when accompanying an animal in public parks or (2) fails to remove animal fecal matter when accompanying an animal off the owner's property. Failure to comply constitutes a class 4 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 class 4 infraction.
- G. **Failure to provide humane care.** Such person fails to provide a pet animal with humane care as defined in Section 6.04.030(J). 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 the quarantine notice served to Thurston County Health Department regulation after an animal has bitten a human. Failure to meet terms of quarantine is a misdemeanor.

6.04.052 Cruelty to animals.

No person shall do the following to any animal: beat, cruelly ill-treat, torment, overwork, deliberately injure, deliberately deny humane care, abuse, inhumanely kill, cause or instigate any dogfight, cockfight, or other combat, including baiting by setting a dog on another animal that is chained or confined, or perform or omit other action as set forth in RCW 77.32 are exempt from this provision. Humane Euthanasia of animals by Animal Services or veterinarians shall not constitute a violation of this chapter. Cruelty to animals is a misdemeanor.

6.04.054 Confinement or restraint of a pet animal.

A pet animal shall not be trapped in any manner that subjects the animal to injury inherent in the mechanism of the trap. A humane box trap may be set on a complainant's property for the purpose of trapping nuisance pet animals. Animals which are caught in such trap must be returned to their owners or taken to Animal Services. Injurious confinement or restraint of a pet animal is a misdemeanor.

6.04.056 Venomous and Constrictor reptiles.

A humane and secure facility shall be provided for constrictor type reptiles over 8 feet in length and all venomous reptiles. Escape of any venomous reptile or constrictor type reptile over 8 feet in length must be reported immediately to Animal Services. Failure to comply constitutes a misdemeanor.

6.05.058 Unlawful Release of pet animal.

No person other than the owner or an officer acting in an official capacity to enforce this chapter shall release a pet animal from any restraining device such as a leash or chain by which the animal is properly restrained. Unlawful release of a pet animal is a misdemeanor.

6.04.060 Impoundment and redemption.

- A. **Impoundment.** An officer may impound any animal in violation of Section 6.04.050.
- B. **Notification of owner.** Upon any pet animal being impounded, Animal Services shall, as soon as feasible, notify the owner, if the owner is known, of the impoundment of the pet animal, and the terms required for the pet animal's return to the owner. Notification may be telephone, or by other means's appropriate for the circumstances, and shall include a description of the pet animal, the reason for impoundment, the general location where the animal was found, and the date when the impounding occurred, and shall advise the owner that the pet animal may be placed for adoption or euthanized by Animal Services unless reclaimed within the time limits provided in this section.
- C. **Reclaim of Pet Animal.** The owner may reclaim any pet animal impounded under this chapter within a 48-hour hold period excluding Sundays and holidays, from the time of impoundment by paying a service charge pursuant to a posted schedule of fees duly adopted by the Joint Animal Services Commission, and, if the pet animal is a pet animal which is not licensed, shall also pay the appropriate fee for a license. Service charges are in addition to any fine, penalty, or medical fee incurred.
 - 1. **Failure by owner to reclaim.** If the owner of the pet animal can be identified and fails to reclaim the pet or sign a release of ownership of the pet animal will be considered released to Animal Services. However, the owner will remain responsible for payment of the impound, medical and service fees.
 - 2. **Availability for adoption.** If the pet animal is not redeemed by the owner within 48 hours of impoundment, it will be made available for adoption during the next 48 hours unless, excluding Sundays and holidays, in the opinion of the Animal Services Director or director's designee, the animal is unsuitable for adoption, in which case it may be humanely destroyed.
 - 3. **Late Reclaim.** If a pet is adopted after the 48-hour holding period, and an owner appears to reclaim the animal after that time, return of the animal to the original owner shall be at the discretion of the adopter.
- D. **Owner unknown.** If the owner of a pet animal is not known, a notice providing appropriate information as described in Section 6.04.060(B) above shall be recorded onto a telephone message device maintained by Animal Services. This notice shall

continue to be recorded for a period of 96 hours from the date of impoundment, or less if said pet animal is reclaimed or adopted after the 48-hour holding period required by Section 6.04.060(C) above.

- E. **Sick and injured.** All seriously sick or injured pet animals, licensed or not, may be impounded when not in the owner's possession and may be given emergency medical treatment or euthanized. Cost for any medical treatment in this manner will be the responsibility of the owner of the pet animal, if known, or, if unknown, by Animal Services. The Animal Services Director or designee shall immediately notify the owner, if the owner is known, and if the owner is unknown, make all reasonable efforts to locate and notify the owner.
- F. **Abandoned Pet Animals.** Officers are empowered to impound any pet animal found abandoned within any building, establishment, or premises, whether public or private. Upon such impoundment, Animal Services shall treat such pet animal in the same manner as other impoundment's provided for in this chapter. Litters of puppies and kittens under three months of age brought to or left at the Animal Shelter may be made available for adoption, placed in foster care or euthanized immediately at the discretion of the Direction or the Director's designee.
- G. **Humane Destruction.** If any pet animal is not redeemed or adopted at the end of the 96-hour holding period from the time it entered the shelter it may be euthanized.

6.04.070 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 Animal Services Director may find and declare an animal potentially dangerous or dangerous if there is probable 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:
 - 1. reports on file with Animal Services about previous aggressive behavior by the dog; or
 - 2. actions of the dog witnessed by any Animal Services Officer or law enforcement officer; or
 - 3. other substantial evidence.
- 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 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 ground in a menacing fashions or 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 on a human being without provocation on public or private property;
 - 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 treat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the dog; or
 - 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 animals 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 premises.

C. Declaration as potentially dangerous or dangerous dog.

1. The declaration of potentially dangerous or dangerous shall be in writing and shall be served on the owner or keeper in one of the following methods:
 - 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.
2. 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 hearing in case the person objects to the declaration, if a written request is made within ten days;
 - f. the restriction placed on the dog as a result of the declaration of potentially dangerous and dangerous;
 - g. the penalties for violation of the restriction, including the possibility of destruction of the dog, and imprisonment or fining of the owner or keeper.
3. If the owner or keeper of the dog wishes to object to the declaration of potentially dangerous or dangerous; the owner or keeper may, within ten days of receipt of the declaration, or within ten day of publication of the declaration pursuant to Section 6.04.070(C)(1)(c), request a hearing before the Animal Services Director.
- 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. While the appeal is pending before the Director, the potentially dangerous or dangerous dog must be confined to the owner's property in such a way to prevent approach of the public or other pet or domestic animals. When in a vehicle, the dog must be securely restrained to prevent escape.
4. The owner or keeper of a dog declared to be potentially dangerous or the complaining citizen may appeal the finding of the Director of Animal Services to the Joint Animal Services Commission.
- a. The owner or keeper of a dog declared to be potentially dangerous or the complaining citizen must submit a written request for a review of the Director's finding to the Director within ten days of receipt of the written findings.
 - b. The owner or keeper and the complaining citizen shall be notified of the time and place for the review hearing.
 - c. The Joint Animal Services Commission may affirm, reverse or modify the findings of the Animal Services Director.
 - d. The decision of the Joint Animal Services Commission shall be mailed by certified mail to the owner/keeper and complaining citizen.

D. Control and confinement of potential 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 premises of the owner or keeper; or
 - b. while on the premises of the owner or keeper must be securely restrained 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 sufficiently

strong enough to adequately and humanely confine the dog in a manner which prevents it from escaping the premises; or

- c. 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 restrain and control the dog if the dog is away from the premises of the owner or keeper; or
- b. while on the premises 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 entry of young children and designed to prevent the animal from escaping; and
- c. conformance with other restrictions which may be set forth in the notice classifying the dog as dangerous.

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

1. a proper enclosure to confine the dog, which meets the requirements of Section 6.04.070(D), and the posting of the premises 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 Chapter 48.28 RCW, in a form acceptable to the Animal Services Director in the sum of at least fifty thousand dollars, payable to any person injured by the dangerous dog, or a policy of liability insurance issued by an insurer qualified under RCW Title 48 in the amount of at least fifty thousand dollars, 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 \$75.00, which shall be in addition to the annual license fee.

F. Violations relating to potentially dangerous or dangerous dog regulations.

1. Any potentially dangerous or dangerous dog which is in violation of the restrictions contained within this section or of restrictions imposed as part of the declaration of potentially dangerous or dangerous dog, may be seized and impounded at the expense of the dog owner.

2. Any person violating the provisions of this section relating to keeping, securing or confining of potentially dangerous dogs shall be deemed guilty of a misdemeanor and shall be subject to those penalties set forth in RCW 9A.20.021(3).
3. Any person violating the provisions of this section relating to keeping, securing or confining of dangerous dogs shall be deemed guilty of a gross misdemeanor and shall be subject to those penalties set forth in RCW 9A.20.021(2).
4. The Animal Services Director may petition Thurston County District Court to determine disposition of said potentially dangerous or dangerous dog. The owner or keeper of said dog shall be given notice of such a hearing and attendance shall be mandatory. After hearing, the court may rule that:
 - a. there is insufficient evidence to support the allegations made, whereupon the dog will be released to its owner subject to any restrictions imposed upon it previously; or
 - b. the dog shall be euthanized by Animal Services; or
 - c. under special circumstances and subject to the restriction of RCW 16.08, the owner or keeper may be allowed to permanently remove the dog from the county; provided that adequate security or assurance against its return is given, and the court is convinced that the dog will be kept in such a manner that it is no longer a danger to persons, property or other animals.

G. Other Dangerous Pet Animals.

The Animals Services Director or designee shall have authority to classify other pet animals as dangerous under the same criteria as used in Section 6.04.070(A) for dogs. Such designation will be based on specific actions by the animal such as those noted in Section 6.04.070(B) and the Animal services Director or designee shall have authority to require the owner or keeper of such pet animal to take certain action to control or confine the pet animal. Once a pet animal has been declared potentially dangerous or dangerous, any violation of the provisions of this section will be handled in the same manner as violations under Section 6.04.070(F).

6.04.080 Infractions. Violation of the following section of this chapter shall constitute a Class 4 civil infraction:

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| A. Section 6.04.040(A) | Failure to license |
| B. Section 6.04.050(A) | Dog at large |
| C. Section 6.04.050(B) | Nuisance pet animal |
| D. Section 6.04.050(C) | Pet animals on public property |
| E. Section 6.04.050(E) | Failure to remove fecal material |
| F. Section 6.04.050(F) | Failure to sterilize an adopted pet animal |

Civil infractions shall be heard and determined according to Chapter 7.80 RCW, as amended, and any applicable court rules.

Section 2. This ordinance shall become effective thirty days after passage, approval and publication as provided by law.

ADOPTED this 7th day of May, 1996.

CITY OF TUMWATER

(Signed by) Ralph C. Osgood
Mayor

ATTEST:

(Signed by) Gayla L. Gjertsen
Clerk/Treasurer

PUBLISHED: May 10, 1996

APPROVED AS TO FORM:

(Signed by) Patrick L. Brock
City Attorney