

ANIMAL CONTROL ORDINANCE # 193
REVISED AND RESTATED
An Ordinance for the Regulation and Licensing of
Dogs

WHEREAS, the Town of Lyman has provided for the regulation and licensing of dogs, and;

WHEREAS, the Town Council finds that prior Ordinance #193 does not adequately provide for regulating the keeping of dogs within the city, and;

WHEREAS, the Town Council has determined that it is not cost-effective to continue to charge for dog licenses, and;

WHEREAS, the Town Council has determined that it is necessary for the protection of the peace and public welfare to prohibit dogs to be at large, whether licensed or unlicensed, and;

WHEREAS, this Revised and Restated Ordinance is intended to replace the previous Ordinance #193 and any and all Amendments;

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF LYMAN
AS FOLLOWS:

The ordinance is enacted for the purpose of regulating the keeping of dogs within the city. The fees, charges and penalties collected hereunder shall be budgeted to defray, in whole or in part, the expense of such regulations.

Definitions as used in this chapter, unless the context otherwise indicates, the following words and terms shall mean:

- A. "Animal" includes both male and female dog, natural or sterilized.
- B. "Animal control authority" means an entity acting alone or in concert with other local governmental units for enforcement of the animal control laws of the city, county, and state and the shelter and welfare of animals.
- C. "At large" means to be off the premises of the owner and not under the control of the owner or of an authorized person twelve years of age, either by leash or otherwise, but an animal within an automobile or other vehicle of its owner shall be deemed to be upon the owner's premises.
- D. "Barking dog" means any dog which by frequent or habitual howling, yelping or barking annoys or disturbs other persons in the vicinity, for a period of thirty (30) minutes or more.
- E. "Code Enforcer" means the Code Enforcement Officer or other town official designated by the laws and ordinances of the town to issue licenses, pick up, restrain, impound, sell, dispose, give notice or to do any other acts, duties or functions prescribed by this chapter or other ordinances relating to the animals herein regulated.

- F. **"Dangerous dog"** means any dog that according to the records of the appropriate authority: (a) has inflicted severe injury upon a human being without provocation on public or private property, (b) has killed a domestic animal without provocation 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 dog again aggressively bites, attacks or endangers the safety of humans or domestic animals; provided, however, that dogs shall not be declared dangerous if the threat, 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 of the dog, or 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 was committing or attempting to commit a crime.
- G. **"Dog"** includes male and female dog, natural or sterilized.
- H. **"Harboring"** The occupant of any premises on which an animal or to which it customarily returns daily for food and care for a period of ten days is presumed to be harboring or keeping the animal within the meaning of this chapter.
- I. **"Leash"** includes a cord, thong or chain by which an animal is controlled by the person accompanying it.
- J. **"License"** shall mean the dog license issued by the town.
- K. **"Owner or keeper"** includes any person, association or corporation owning, keeping or harboring an animal.
- L. **"Potentially dangerous dog"** means any dog that when unprovoked: (a) inflicts bites on a human or a domestic animal either on public or on 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 dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury, or otherwise to threaten the safety of humans or domestic animals.
- M. **"Proper enclosure of a dangerous dog"** means, while on the owner's property, a dangerous dog shall be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top, and shall also provide protection from the elements for the dog.
- N. **"Severe injury"** means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.
1. **"Vicious animal"** includes those whose temperament or habits create danger of injury to persons or other animals or create a reasonable apprehension of injury or persons or other animals.

License required. It is unlawful to keep or harbor a dog over 6 months of age within the town unless an animal license has been procured for the animal in the town.

License Application. Application for such license shall be made upon forms provided by the town. The application shall list the name, address, and phone number of the owner, the name, breed, color, age, and sex of the animal owned or harbored by him. Such information shall be kept conveniently indexed by the town clerk together with the number of the license issued.

With respect to a dog brought into the Town, the owner shall obtain a license for said dog within thirty (30) days after said entry of dog or a fifteen dollar (\$15.00) fine will be imposed.

License Expiration. The license shall be valid during the life of the dog, but shall not be transferred to another owner or keeper, provided that the Town shall retain the right to impose a license fee and / or license expiration date upon amendment of this ordinance.

Tag Required. Each licensed dog shall be provided by the owner or keeper with a suitable collar or harness which shall be worn by the animal at all times when off the premises of the owner. To such a collar or harness shall be affixed a dog license tag provided by the town. Such license or tag shall be so affixed as to hang and be discernable to a person of normal vision at not less than ten feet. The license tag shall be stamped with the tag number. It is unlawful for any person other than the owner, his agent or a city official to remove the license tag from the dog. This Tag will be provided free of charge to dogowner.

Lost tag. Any owner or keeper of a licensed animal whose current license tag has been lost may obtain a replacement tag, prior to impounding of such animal. Any animal licensed which may be impounded while running at large may be redeemed upon payment of impounding and care fees.

At Large. It is unlawful for the owner, or keeper, custodian, or person having charge of any dog to permit an animal to run at large within the town at any time.

At Large Parks. It is unlawful for the owner or keeper to permit a dog in a public park except on a leash and subject to all applicable rules and regulations or ordinances relating to the use of parks and open spaces. Ref. (Ord 162)LTC

Impounding of offending animal. It shall be the duty of such Town employees as shall be designated for that purpose by the mayor, or the employees of any authorized agency designated by the mayor with the approval of the Town Council to take up and impound any animal found in the city in violation of any provision of this ordinance.

impoundment registry notice. The Code Enforcer or his duly appointed agent, shall immediately upon impounding of any animal make a complete registry, entering the breed, color, sex of such animal and whether licensed, if known, and if licensed, enter the name and address of the owner and number of the license tag, if known.

- A. When any licensed animal shall be impounded, the Code Enforcer or Town Clerk shall forthwith give notice by mail or by telephone to the owner of such licensed dog inform them of the impounding of the dog and the reason therefore.
- B. If any dog not bearing a collar or harness to which is attached a license, shall be impounded, the Code Enforcer or Town Clerk shall give notice within 24 hrs.

of such impounding by posting notice giving the breed, color, sex, and other identifying characteristics of such impounded animal together with the date and place of apprehension thereof. Such notice shall be posted at Town Hall and at such other public place as shall provide for such notice.

Impoundment-Redemption Costs. For every animal taken in and impounded as provided in this chapter, there shall be paid to the Town Clerk, by the person desiring to redeem such animal, the total of the following fees:

- A. An impounding fee of twenty-five dollars (\$25.00) or such other sums that are designated by the Town Council from time to time.
- B. Such costs for feeding, veterinary treatment and care of such animal as shall be imposed by the city to care for the impounded animals.

Impoundment-Redemption. Any animal which has been impounded may be redeemed within 48 hrs. after being impounded by any person claiming to own or to be acting for the owner of such animal. If any animal be not redeemed within the 48 hrs. after being impounded such animal will be taken to Skagit County Humane Society.

- A. For every dog taken up and impounded as provided, there shall be paid to the designated official or agency, by any person desiring to redeem such dog, the total of the following fees:
- B. Payment of actual expenses for boarding the dog, including any reasonable charges by the Humane Society, plus a distraint fee of fifty dollars (\$50.00).

Unable to safely Impound: If any fierce dangerous, vicious or predatory animal cannot be safely taken up and impounded, the Code Enforcement Officer or his duly appointed agent shall call Skagit County Humane Society and/or Skagit County Sheriff to deal with such animal.

Impoundment Conditions upon release: When any animal shall be impounded pursuant to the provisions of this chapter, the code enforcer may impose such conditions upon the release of such animal as may be necessary or desirable in order to avoid forestall or prevent recurrence of the violation leading to the impounding of such animal and no animal shall be redeemed by the owner or other persons except in compliance with and subject to these conditions. These conditions may include undertaking to pay for damages done by such animal or any other conditions which may be appropriate and reasonable to avoid recurrence of the conditions leading to such impounding.

Dog chasing vehicles: Any dog chasing cars, motorcycles, bicycles or any other vehicles may be declared a nuisance upon written statement of two or more persons having observed such animal inaction.

Suitable shelter and food: It is unlawful for any person to keep or harbor an animal within the town without providing a suitable dry place for the housing thereof or to fail to provide a suitable amount of food and clean water. If a complaint is made and it is found that these provisions are in question or not met, animals may be impounded and Code

Enforcement Officer will provide to the Skagit County Humane Society, a detailed report thereof.

Potentially dangerous dogs.

A. It is unlawful for any owner of a potentially dangerous dog, who has been notified by an animal control authority that he or she is the owner of a potentially dangerous dog, to keep such dog within Skagit County unless such owner has procured a license from the animal control authority.

B. The animal control authority may find and declare an animal potentially dangerous if it has probable cause to believe that the animal falls within the definition set forth in subsection C under the Definition section of this ordinance. The finding must be based upon:

1. The written complaint of a citizen who is willing to testify that the animal has acted in a manner which causes it to fall within the definition of a "potentially dangerous dog" or
2. Dog bite reports filed with the animal control authority as required by this title or state law; or
3. Actions of the dog witnessed by any animal control officer or law enforcement officer; or
4. Other substantial evidence admissible in municipal court.

C. The declaration of potentially dangerous dog shall be in writing, shall be served on the owner in one of the following methods:

1. Certified mail to the owner or keeper's last known address, if known; or
2. Personally; or
3. If the owner cannot be located by one of the first two methods, by publication in a newspaper of general circulation;
4. The owner of any animal found to be a potentially dangerous dog under this section shall be assessed all service costs expended under this subsection.

D. The declaration shall state at least:

1. A description of the animal;
2. The name and address of the owner or keeper of the animal, if known;
3. The whereabouts of the animal if it is not in the custody of the owner;
4. The facts upon which the declaration of potentially dangerous dog is based;
5. The availability of a hearing in case the person objects to the declaration, if a request is made within five days;
6. The restrictions placed on the animal as a result of the declaration of potentially dangerous dog;
7. The penalties for violation of the restrictions, including the possibility of destruction of the animal, and imprisonment or fining of the owner.

E. If the owner of the animal wishes to object to the declaration of potentially dangerous dog:

1. The owner may, within five days of receipt of the declaration, or within five days of the publication of the declaration pursuant to subsection (C)(3) of this section, request a hearing before the Lyman Town Council by submitting a written request for such a hearing to be placed on the agenda of the next regularly scheduled Town Council Meeting;
2. If the council finds that there is insufficient evidence to support the declaration, it shall be rescinded, and the restrictions imposed thereby annulled;
3. If the council finds sufficient evidence to support the declaration, it shall impose the appropriate fines and costs on the appellant, and may impose additional restrictions on the animal;
4. In the event the council finds that the animal is not a potentially dangerous dog, no costs shall be assessed against Lyman or the animal control authority or officer.

F. Following service of a declaration of potentially dangerous dog, and pending appeals under this section or to any other court with jurisdiction, the animal control authority may, if circumstances require, impound the animal at the owner's expense, pursuant to the provisions of this chapter, until either its redemption or destruction is ordered.

G. The owner of a potentially dangerous dog shall obtain a license for such dog from the animal control authority, and shall be required to pay the fee for such license in the amount set forth in subsection H of this section, or as hereafter amended. In addition, the owner of a potentially dangerous dog shall pay an annual renewal fee for such license in the amount set forth in subsection H of this section, or as amended after the effective date of the ordinance codified in this title.

H. The license fee for each potentially dangerous dog to be licensed under this section is \$250.00. The annual renewal fee for each potentially dangerous dog licensed under this section is \$50.00.

Dangerous dogs.

A. It is unlawful for an owner to have a dangerous dog in the city without a certificate of registration issued under this section. This section shall not apply to dogs used by law enforcement officials for police work.

B. The animal control authority shall issue a certificate of registration to the owner of a dangerous dog if the owner presents to the animal control authority sufficient evidence of:

1. A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible warning sign that there is a dangerous dog on the property. In addition, the owner shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous dog;
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 \$50,000, payable to any person injured by the dangerous dog; or

3. A policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under RCW Title 48 in the amount of at least \$50,000, insuring the owner for any personal injuries inflicted by the dangerous dog.

C. A certificate of registration as used in this section shall be obtained from the animal control authority. The owner of a dangerous dog shall obtain a certificate of registration from the animal control authority, and shall be required to pay the fee for such certificate of registration in the amount set forth in subsection D of this section, or as amended after the effective date of this ordinance. In addition, the owner of a dangerous dog shall pay an annual renewal fee for each dangerous dog licensed under this section in the amount set forth in subsection D of this section, or as amended after the effective date of this ordinance, and shall submit proof of compliance with subsection B of this section.

D. The owner of a dangerous dog shall pay a fee for the certificate of registration in the amount of \$500.00. The annual renewal fee for each dangerous dog licensed under this section is \$100.00.

Penalties.

Unless otherwise specifically provided herein, any person violating any provision of this ordinance shall have committed a civil infraction and shall be subject to a civil penalty as specified herein:

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| A. Failure to obtain license within 30 days of new dog being brought into town. | \$15.00 |
| B. Impoundment fee | \$25.00 |
| C. Skagit County Humane Society distraint fee | \$50.00 |
| D. Dogs running at large, not on a leash | \$10.00 (first violation)
\$25.00 (each subsequent violation) |

E. Dogs with owner but not on leash **\$10.00**
The owner of the dog in violation of this section will be notified of the violation by the Code Enforcer in person at the time of the infraction. If unable to make personal contact, the Code Enforcer will follow notice requirements under the **Impoundment registry notice** subsection.

F. Barking dog that constitutes a public nuisance **\$25.00**
A courtesy visit from Code Enforcement Officer and warning issued. If barking continues and is said to be a public nuisance, twenty-five dollars (\$25.00) a fine will be imposed.

G. Any owner of a potentially dangerous dog who fails to obtain a license or renewal for such dog as described in this ordinance shall be assessed a civil penalty in the amount of \$250.00; provided, however, that no such civil penalty shall be assessed until five days

have elapsed from the date such owner is notified by the animal control authority that such a license or renewal for such potentially dangerous dog is required, or until any appeal brought under that section has been completed, whichever is later.

H. Any owner of a dangerous dog who fails to obtain a certificate of registration or renewal for such dog as set forth in this ordinance shall be assessed a civil penalty in the amount of \$500.00; provided, however, that no such civil penalty shall be assessed until five days have elapsed from the date such owner is notified by the animal control authority that such a license or renewal for such dangerous dog is required.

I. Any dangerous dog or potentially dangerous dog for which a license or certificate of registration (or renewal) has not been obtained by its owner, pursuant to subsections G and H of this section, is subject to being impounded by the animal control authority. The owner of any potentially dangerous dog or dangerous dog so impounded shall be subject to a civil penalty in the amount of \$10.00 per day for each day such dog remains impounded with the animal control authority. Any potentially dangerous dog or dangerous dog impounded due to the failure of the owner of such dog to obtain the required license or certificate of registration, and which remains impounded for a period of at least 20 days due to the failure of the owner to obtain such license or certificate of registration (or renewal), may be destroyed in an expeditious and humane manner by the animal control authority.

J. IT is unlawful for the owner of a dangerous dog to permit the dog to be outside the proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under physical restraint of a responsible person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal. Any owner who violates this provision shall be assessed a civil penalty of \$250.00 for each violation thereof.

K. Any dangerous dog shall be immediately confiscated by an animal control authority if the: (1) dog is not validly registered under this ordinance; (2) owner does not secure the liability insurance coverage required under this ordinance; (3) dog is not maintained in a proper enclosure; (4) dog is outside of the dwelling of the owner, or outside of the proper enclosure and not under physical restraint of the responsible person. In addition, the owner shall be guilty of a misdemeanor punishable in accordance with RCW 9A.20.021. The owner of any dog confiscated under this subsection may recover such dog from the animal control authority upon the payment of a civil fine which shall be in the amount of \$250.00 plus \$10.00 per day for each day said dog has been in the control of the animal control authority; provided, however, that in the event the owner has not picked up the dangerous dog within 10 days of being notified by the animal control authority that such dog is under the control of such authority, the dog shall be destroyed in an expeditious and humane manner and the owner shall be assessed an additional civil penalty in the amount of \$65.00 for the cost of destroying such dangerous dog.

L. If a dangerous dog of an owner with a prior conviction under this chapter attacks or bites a person or another domestic animal, the Code Enforcer or Town Clerk shall notify

the Skagit County animal control authority. In addition, the dangerous dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner. The owner of any dangerous dog confiscated and destroyed pursuant to this subsection shall be assessed a civil penalty in the amount of \$15.00 per day for each day such dangerous dog is quarantined with the animal control authority and in the amount of \$65.00 for the cost of destroying such dangerous dogs.

M. The owner of any dog that aggressively attacks and causes severe injury or death of any human, regardless of whether there has been any previous determination of whether such dog is potentially dangerous or dangerous, shall be reported to the Skagit County animal control authority. In addition, the dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner. The owner of any dangerous dog confiscated and destroyed pursuant to this subsection shall be assessed a civil penalty in the amount of \$15.00 per day for each day such dangerous dog is quarantined with the animal control authority and in the amount of \$65.00 for the cost of destroying such dangerous dog.

N. In addition to any civil penalty or criminal sentence as provided under this ordinance or RCW 16.08, the owner of the dog, whether licensed or not, shall be liable for actual expenses for boarding the dog, including any reasonable charges by the Skagit Humane Society, and if necessary, for the cost of the dog's destruction.

Hearings.

A. Any owner against whom a civil penalty has been assessed under this ordinance may contest such civil penalty by requesting a hearing before the Lyman Town Council by submitting a written request for such a hearing to be placed on the agenda of the next regularly scheduled Town Council Meeting.

B. Where an owner has requested a hearing pursuant to subsection A of this section, no potentially dangerous dog or dangerous dog which is in the possession of the animal control authority shall be destroyed until the resolution of such hearing; provided, however, that an additional civil penalty in the amount of \$10.00 per day shall be assessed against any owner whose dog remains in the custody of the animal control authority during any hearings requested under this section where resolution of such hearing is that all or any part of the civil penalty against such owner is found to be properly assessed.

C. Following resolution of any contested hearing regarding a civil penalty as provided herein, the owner of any dangerous dog or potentially dangerous dog in the possession of the animal control authority shall pay all civil penalties which may have been assessed as authorized above within 10 days of the final resolution of any hearing regarding such civil penalties.

D. Any dangerous dog or potentially dangerous dog which has not been picked up from the animal control authority by its owner within 10 days of the final resolution of any hearing regarding any civil penalties under this section shall be destroyed in an expeditious and humane manner; provided, however, that any additional civil penalty for the cost of destroying such dog shall be assessed against the owner, and may be collected as provided herein.

Immunity.

The city, the animal control authority and any animal control or code enforcement officer shall be immune from any and all civil liability for any actions taken pursuant to this title, or for any failure to take action to enforce the provisions of this title. It is not the purpose or intent of this chapter to create on the part of Lyman, or its agents any special duties or relationships with specific individuals. This chapter has been enacted for the welfare of the public as a whole.

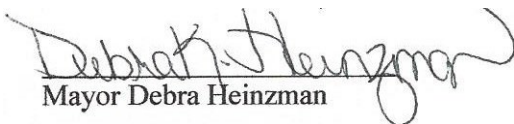
Enforcement.

A. All civil penalties assessed and required to be paid by owners for violations of the provisions of this ordinance shall be made to Town Clerk.

B. No potentially dangerous dog or dangerous dog confiscated by the animal control authority shall be returned to any owner until such owner has paid all civil penalties which have been assessed against such owner under this ordinance.

Unpaid Fines. Any fine issued hereunder which remains unpaid for a period of thirty days after its issuance shall be considered delinquent. Pursuant to RCW 19.16.500, the Town Clerk may assign such delinquent debt to a collection agency for collection. A delinquent debt shall be assigned to collections after (a) there has been an attempt to advise the debtor (i) of the existence of the debt and (ii) that the debt may be assigned to a collection agency for collection if the debt is not paid, and (b) at least thirty days have elapsed from the time notice was attempted. The debtor shall become liable for any additional collection fees associated with any such collection procedure.

PASSED AND APPROVED this 9th day of July, 2008


Mayor Debra Heinzman

Attest:


Clerk / Treasurer