

Chapter 6.09 DANGEROUS DOGS

Sections:

6.09.010 Purpose.

~~The city council finds that certain dogs are a threat to the safety and welfare of citizens by virtue of their unpredictability and the potential to inflict severe injury without provocation. Some of these risks are attributable to the failure of owners to confine or properly control such dogs or to characteristics of particular dogs. The council believes that this chapter is necessary to better address this situation as the potential for harm outweighs the burden of added requirements on certain dog owners. The purpose of this chapter is to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of these provisions. Should there be any conflict between the provisions of this chapter and other portions of this code, the provisions of this chapter shall prevail.~~

~~(Ord. 1298 § A(part), 2007).~~

6.09.020 Definitions.

Unless the context clearly requires otherwise, aAs used in this chapter, the following terms shall have the meanings as set forth in this section:

"Animal control authority" mean the City of Lynden Police Department.

"Animal control officer" means any Lynden police officer and any other City employee authorized by the City and specially commissioned by the Chief of Police to enforce Title 6 of the Lynden Municipal Code.

Confined. For purposes of this chapter, "confined" means, securely indoors with limited means for entry or exit, or within an enclosed and locked fenced pen or structure. Such fenced pen or structure must have attached sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than two feet. "Dangerous dog" has the same meaning as set forth at RCW 16.08.070(2), which at present is "any dog that (a) inflicts severe injury on a human being without provocation on public or private property, (b) kills a domestic animal without provocation while the dog is off the owner's property, or (c) has been previously found to be potentially dangerous because of injury inflicted on a human, the owner having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of humans." Any future amendments to the definition of "Potentially dangerous dog" in RCW 16.08.070(2) or as later codified elsewhere are automatically incorporated herein.

"Owner" (or "Keeper") has the same meaning as set forth in RCW 16.08.070(7), which at present is "any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control or custody of an animal." Any future amendments to the definition of "Proper enclosure of a dangerous dog" in RCW 16.08.070(7) or as later codified elsewhere are automatically incorporated herein.

"Potentially dangerous dog" has the same meaning as set forth at RCW 16.08.070(1), which at present is "any dog that when unprovoked: (a) Inflicts bites on a human or a domestic animal either on public or private property, or

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Commented [LP1]: Should the City contract with the Whatcom Humane Society in the future, this definition can be modified to designate WHS as the Animal Control Authority.

Commented [LP2]: Should the City contract with the Whatcom Humane Society in the future, this definition can be modified to "employees of the Whatcom Humane Society who are duly appointed pursuant to RCW 16.52.025 and authorized to enforce Title 6 of the Lynden Municipal Code and the laws of the State of Washington as they relate to animal control and welfare."

(b) chases or approaches a person upon 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 to cause injury or otherwise to threaten the safety of humans or domestic animals." Any future amendments to the definition of "Potentially dangerous dog" in RCW 16.08.070(1) or as later codified elsewhere are automatically incorporated herein.

"Proper enclosure of a dangerous dog" has the same meaning as set forth in RCW 16.08.070(4), which at present is "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." Any future amendments to the definition of "Proper enclosure of a dangerous dog" in RCW 16.08.070(4) or as later codified elsewhere are automatically incorporated herein.

"Dangerous dog" means any dog that:

1. — Inflicts severe injury on a human being without provocation on public or private property; or
2. — Kills a domestic animal without provocation while the dog is off the owner's property; or
3. — Has been previously found to be potentially dangerous because of injury inflicted on a human, the owner having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of humans.

"Owner or keeper" means any person, firm, corporation, partnership, limited partnership, association, organization, or department possessing, harboring, keeping, having an interest in, or having control or custody of an animal.

"Potentially dangerous dog" means any dog that when unprovoked:

1. — Chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or
2. — Inflicts bites on a human or domestic animal either on public or private property; or
3. — Any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or to otherwise aggressively threaten the safety of humans or domestic animals.

Residence. For the purposes of this chapter, "Residence" means and includes the premises controlled by a dog's owner or keeper, including a dwelling unit or business, so long as the area at issue is not a place to which the public is generally invited, nor a common area of a condominium or multifamily residential property.

"Severe injury" has the same meaning as set forth at RCW 16.08.070(3), which at present is "any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery." Any future amendments to the definition of "Severe injury" in RCW 16.08.070(3) are automatically incorporated herein.

"Severe injury" means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

"Unconfined" means not securely confined indoors or not confined in a securely enclosed and locked fenced pen or structure. Such fenced pen or structure must have attached sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than two feet.

(Ord. 1298 § A(part), 2007).

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6.09.030 ~~Criminal penalty.~~ Reserved.

~~Reserved. It is unlawful to keep, harbor, own or in any way possess a dangerous dog or potentially dangerous dog within the city limits of Lynden, except as permitted pursuant to this chapter.~~
~~(Ord. 1298 § A(part), 2007).~~

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6.09.040 ~~Potentially Dangerous or potentially dangerous dog –~~ Declaration—Notice and hearing for dangerous dogs.

A. Preliminary Declaration by Animal Control Officer. ~~The Lynden police chief~~ An animal control officer may find and declare ~~issue a preliminary declaration that a dog is potentially dangerous or potentially dangerous if there is probable cause to believe that the animal dog falls within the respective definitions of either “potentially dangerous dog” or “dangerous dog” (as applicable) -set forth in LMC Section 6.09.020. The preliminary declaration shall be based upon:~~

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1. The written complaint of a citizen who is willing to testify that the dog has acted in a manner which causes it to fall within the definition of either “potentially dangerous dog” or “dangerous dog” set forth in LMC 6.09.020;
2. Dog bite reports filed with any animal control officer or law enforcement officer;
3. Actions of the dog witnessed by any animal control officer or law enforcement officer; or
4. Other substantial evidence.

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B. Notice of Preliminary Declaration - Service. A notice of preliminary declaration shall be made in writing by an animal control officer and shall be served on the owner or keeper of the dog by one of the following methods:

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1. Personal service upon the owner or keeper; or
2. By mailing to the owner or keeper’s last known address via both (i) certified mail, return receipt requested, and (ii) regular mail.

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C. Notice of Preliminary Declaration – Contents. The written notice of preliminary declaration shall contain, at a minimum, the following information:

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1. The name and address of the owner or keeper of the dog;
2. A description of the dog;
3. The facts upon which the preliminary declaration is based;
5. The statutory basis for the preliminary declaration;
4. The dog’s last known whereabouts;
5. A statement that the owner or keeper is entitled to an opportunity to meet with the animal control officer who issued the notice of preliminary declaration, at which meeting the owner or keeper may give, orally or in writing, any reasons or information as to why the dog should not be declared potentially dangerous or dangerous;
6. The date, time, and location of the meeting, which must occur within fifteen (15) calendar days of the delivery of the notice of preliminary declaration to the owner or keeper;

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7. A statement that the owner or keeper may propose an alternative meeting time, subject to the availability of the animal control officer, so long as said alternative meeting time is within fifteen (15) calendar days of the delivery of the notice of preliminary declaration to the owner or keeper;

8. A statement that the animal control officer will issue a final declaration either (i) within fifteen (15) calendar days of the meeting date identified in the notice, or (ii) within fifteen (15) calendar days of the date the meeting occurs;

9. A statement that the final declaration may be -appealed to Lynden Municipal Court as provided for in LMC 6.09.050; and

10. A statement that if a final declaration is issued declaring the dog to be a potentially dangerous dog or dangerous dog, the owner or keeper will be required to comply with the relevant regulation set forth in LMC 6.09.

Commented [LP3]: Note: will need to revise LMC 2.09.040(2) to remove these appeals from the Hearing Examiner's duties.

D. Final Declaration by Animal Control Officer. Within either (i) fifteen (15) calendar days a meeting with the owner or keeper of the dog subject to the notice of preliminary declaration, or (ii) if no meeting occurs, within fifteen (15) calendar days of the meeting date and time listed in the notice of preliminary declaration pursuant to LMC 6.09.040(C)(6), the animal control officer shall issue a final determination.

If the notice of preliminary declaration found the dog was a dangerous dog, the final declaration may find the dog is (i) a dangerous dog, (ii) potentially dangerous dog, or (iii) neither a dangerous or potentially dangerous dog. If the notice of preliminary declaration found the dog was a potentially dangerous dog, the final declaration may find the dog is (i) a potentially dangerous dog, or (ii) is not a potentially dangerous dog.

The final declaration shall be in the form of a written order and shall constitute the final determination of the City pursuant to RCW 16.08.080(3), as amended or as later codified elsewhere.

E. Notice of Final Declaration – Service. A notice of final declaration shall be served on the owner or keeper of the dog by one of the following methods:

1. Delivery in person to the owner or keeper at the owner or keeper's last address known to the City; or
2. Delivered by mailing to the owner or keeper's last known address via both (i) certified mail, return receipt requested, and (ii) regular mail.

A notice of final declaration sent by mail will be considered received by the recipient three (3) calendar days after the date of mailing by certified mail.

Commented [LP4]: Will likely revise the references to the appeal deadline being 20 days after the "receipt" of the final notice. Note that RCW 16.08.080(4) contemplates an appeal deadline 20 days from receipt of the final declaration, rather than 20 days from delivery.

F. Notice of Final Declaration – Contents. The notice of final declaration shall contain, at a minimum, the following information:

1. The name and address of the owner or keeper of the dog;
2. A description of the dog;
3. A brief concise statement of the facts that support the declaration;
4. The statutory basis for the determination;
5. The reason(s) the animal control official considers (or does not consider) the dog to be a potentially dangerous dog or a dangerous dog, as applicable;
6. The dog's last known whereabouts;
7. A statement that final declaration constitutes the final determination of the City pursuant to RCW 16.08.080(3), as amended or as later codified elsewhere;
8. A statement that the final determination may be appealed to Lynden Municipal Court as provided for in LMC 6.09.050;

9. A statement that any appeal must be filed with the City Clerk within twenty (20) calendar days of receipt of the notice of final declaration by the owner or keeper of the dog;

9. A statement that the dog is subject to (i) the registration and applicable controls required by Chapter 16.08 RCW, and (ii) any additional requirements imposed by the animal control officer pursuant to LMC 6.09.070; and

10. The signature of the animal control officer who made the final declaration. Pursuant to RCW Section 16.08.080 the declaration shall be served upon the owner or keeper stating the statutory basis for the proposed action; the reasons the animal is considered dangerous or potentially dangerous; a statement if the dog is subject to registration and controls required by this chapter, including a recitation of the registration requirements; and an explanation of the owner's rights and of the proper procedure for appealing a decision finding the dog dangerous or potentially dangerous. Prior to the Lynden police chief issuing its final determination, the police department shall notify the owner in writing that he or she is entitled to an opportunity to meet with the police chief, at which meeting the owner may give, orally or in writing, any reasons or information as to why the dog should not be declared dangerous or potentially dangerous. The notice shall state the date, time, and location of the meeting, which must occur prior to expiration of fifteen calendar days following delivery of the notice. The owner may propose an alternative meeting date and time, but such meeting must occur within the fifteen day time period set forth in this section. The format of the meeting is informal and need not be recorded. After such meeting, the police chief must issue his or her final determination, in the form of a written order, based upon a preponderance of the evidence, within fifteen calendar days. In the event no meeting occurs due to the owner's failure to meet with the police chief, the determination of the police chief shall be final.

In the event the police chief declares a dog to be dangerous or potentially dangerous, the order shall include a recital of the authority for the action, a brief concise statement of the facts that support the determination, and the signature of the person who made the determination. The order shall be sent by regular and certified mail, return receipt requested, or delivered in person to the owner at the owner's last address known to the Lynden police department.

(Ord. 1298 § A(part), 2007).

6.09.050 Appeal of dangerous dog or potentially dangerous dog declarationFinal Declaration **- Appeal.**

A. If the owner or keeper of a dog subject to a final declaration may appeal the City's final determination by submitting a written appeal to the City Clerk and paying any applicable appeal fee described in the City's unified fee schedule. The written appeal must be filed within twenty (20) calendar days of the owner or keeper's receipt of the notice of final declaration and must contain, at a minimum, the following information:

1. A brief statement that protests the final determination and states the reason(s) said final determination should be reversed or modified;

2. Names, addresses, and contact information for any witnesses who will appear on the owner or keeper's behalf; and

3. Current phone number where the owner or keeper can be contacted.

The deadline for filing an appeal of a final declaration is jurisdictional. Any untimely appeal shall be dismissed.

B. The City Clerk shall promptly forward any filed appeal to the municipal court, who shall then set a hearing date for an open-record public hearing within thirty (30) calendar. The owner may file an appeal with the city clerk to be forwarded to the hearing examiner challenging the final written order and declaration of the police chief made pursuant to this chapter. The appeal must be filed within fourteen days of the date of mailing the declaration of dangerous dog or potentially dangerous dog. The hearing examiner shall conduct an open record public hearing for any timely filed appeal within thirty days of the date of filing and shall issue his or her a decision in writing.

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C. The City shall have the burden of proving, by a preponderance of the evidence, that the dog is a “potentially dangerous dog” or “dangerous dog” (depending on the designation included in the notice of final declaration) pursuant to the definition set forth in LMC 6.09.020.

D. Following the hearing, the court may remove, add, or modify any optional conditions imposed in the final declaration pursuant to LMC 6.09.070.

E. During the entire appeal process, it shall be unlawful for the owner or keeper who appeals a final declaration to allow or permit the dog subject to the final declaration to be outside a proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person. The muzzle shall be in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent the dog from biting any person or animal. The Animal control officer may order the dog subject to the final declaration to be confined or controlled in compliance with RCW 16.08.090, as amended or later codified elsewhere.

F. In those instances where the dog has been impounded, the owner or keeper shall be responsible for the costs of redemption, boarding, and any veterinary fees. Said fees must be paid prior to release of the dog, except in those cases where the City fails to meet its burden of proof on appeal.

(Ord. 1298 § A(part), 2007).

(Ord. No. 1615, § 2, 11-1-2021)

6.09.060 Regulation of dangerous dog or potentially dangerous dog on premises. Reserved

~~The owner of a dangerous dog or potentially dangerous dog shall not permit such dog to go unconfined at any time upon the premises of such owner or keeper as outlined in Section 6.09.090.~~

~~(Ord. 1298 § A(part), 2007).~~

6.09.070 Regulation of potentially dangerous dogs ~~and~~ ~~potentially dangerous dog~~ ~~off~~ ~~premises.~~

A. Conditions Imposed. A final declaration finding a dog to be either a potentially dangerous dog or a dangerous dog shall impose conditions of continued ownership or keeping of the dog subject to the final declaration. The owner or keeper of a dangerous dog or potentially dangerous dog shall not permit such dog to go beyond the premises of such person unless such dog is securely leashed and muzzled or otherwise securely restrained and muzzled. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but will prevent it from biting or causing severe injury to any person or animal.

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B. Potentially Dangerous Dog – Mandatory Conditions. A final declaration declaring a dog a potentially dangerous dog shall include, at a minimum, the following mandatory conditions:

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1. If the potentially dangerous dog is over the age of six months and has not previously been spayed or neutered, the dog shall be spayed or neutered at the expense of the owner or keeper within thirty (30) calendar days, and the owner or keeper shall provide the City a copy of a veterinarian's certification as to the sterilization.

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2. The owner or keeper shall obtain copy of a veterinarian's certification of rabies vaccination showing the potentially dangerous dog has received a rabies vaccination within the last three (3) years, and shall provide the City with said veterinarian's certification within thirty (30) calendar days of the final declaration becoming final.

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3. The potentially dangerous dog shall have a microchip implanted in the dog for identifying purposes at the expense of the owner or keeper and the identifying information shall be provided to the City within thirty (30) calendar days of the issuance of the final declaration.

4. The owner or keeper shall provide the City written notice within ten (10) calendar days when a potentially dangerous dog dies, is sold, given away, or moved to a new address.

C. Potentially Dangerous Dog – Optional Conditions. A final declaration declaring a dog a potentially dangerous dog may also include one or more of the following optional conditions, at the issuing animal control officer's discretion:

1. The owner shall have an enclosure to confine a potentially dangerous dog, that meets or exceeds the requirements for a proper enclosure of a dangerous dog pursuant to the definition set forth in LMC 6.09.020, at the place where the potentially dangerous dog is regularly kept, and shall provide the City with sufficient evidence of said enclosure.

2. The owner of the potentially dangerous dog shall not permit the dog to be outside the enclosure unless the dog is (i) muzzled, (ii) restrained by a substantial leash or chain having a tensile strength of at least three-hundred pounds, and (iii) under the control of a responsible person 18 years of age or older who is physically able to restrain and control the animal. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with the dog's vision or respiration, but shall prevent the dog from biting any person or animal.

3.

D. Dangerous Dog – Mandatory Conditions. A final declaration declaring a dog a dangerous dog shall include, at a minimum, the following mandatory conditions:

1. The owner or keeper shall acquire and maintain a certificate of dangerous dog registration pursuant to LMC 6.09.080.

2. If the dangerous dog is over the age of six months and has not previously been spayed or neutered, the dog shall be spayed or neutered at the expense of the owner or keeper within thirty (30) calendar days, and the owner shall provide the City a copy of a veterinarian's certification as to the sterilization.

3. The owner or keeper shall obtain copy of a veterinarian's certification of rabies vaccination showing the potentially dangerous dog has received a rabies vaccination within the last three (3) years, and shall provide the City with said veterinarian's certification within thirty (30) calendar days of the final declaration becoming final.

4. The dangerous dog shall have a microchip implanted in the dog for identifying purposes at the expense of the owner or keeper and the identifying information shall be provided to the City within thirty (30) calendar days of the issuance of the final declaration.

5. The owner of a dangerous dog shall acquire and continually maintain in effect either (i) a surety bond issued by a surety insurer qualified under Chapter 48.28 RCW in a form acceptable to the City in the sum of at least two-hundred and fifty thousand dollars (\$250,000), payable to any person injured by the dangerous dog, or (ii) a policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under Title 48 RCW in the amount of at least two-hundred and fifty thousand dollars (\$250,000), payable to any person injured by the dangerous dog. The owner shall provide sufficient evidence of such insurance coverage to the City within thirty (30) calendar days of the issuance of the final declaration.

6. The owner shall have a proper enclosure to confine a dangerous dog at the place where the dangerous dog is regularly kept, and shall provide the City with sufficient evidence of said enclosure.

7. The owner of the dangerous dog shall not permit the dog to be outside the proper enclosure unless the dog is (i) muzzled, (ii) restrained by a substantial leash or chain having a tensile strength of at least three-hundred pounds, and (iii) under the control of a responsible person 18 years of age or older who is

physically able to restrain and control the animal. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with the dog's vision or respiration, but shall prevent the dog from biting any person or animal.

8. The owner shall display a sign on the premises where the dangerous dog is kept stating "Dangerous Dog." This sign shall be visible and capable of being read from any adjacent public street or sidewalk. In addition, the owner shall conspicuously display the sign with a warning symbol that informs children of the presence of a dangerous dog.

9. The owner or keeper shall provide the City written notice within ten (10) calendar days when a dangerous dog dies, is sold, given away, or moved to a new address.

E. Dangerous Dog – Optional Conditions. A final declaration declaring a dog a dangerous dog may also include one or more of the following optional conditions, at the issuing animal control officer's discretion:

1. The owner shall install new or additional fencing to keep the dog within the confines of the premises of its owner or keeper.

2. The owner shall keep the dangerous dog indoors at all times when not muzzled, leashed, and under the physical restraint of a responsible person pursuant to LMC 6.09.070(D)(7), (Ord. 1298-5-A(part), 2007).

3.

F. Inspection of Proper enclosure. Enclosures or other facilities required for a potentially dangerous dog or dangerous dog pursuant to a condition imposed by a final declaration shall be subject to inspection by an animal control officer at any time. The failure of any owner or keeper to permit such an inspection shall constitute a violation of this section.

G. Review of Optional Conditions. After one year has passed following the issuance of a final declaration, any optional conditions imposed pursuant to this may be reviewed and modified by the Police Chief or Community Development Director. Any modification of optional conditions must be supported by written findings and conclusions issued by the Police Chief or Community Development Director, which will become final and effective fifteen (15) calendar days after notice to the owner or keeper of the dog unless appealed to Lynden Municipal Court. The notice and appeal of any modification of optional conditions follow the notice and appeal procedure contained in [...]

6.09.080 Dangerous dog—Certificate of registration required—~~Liability insurance—Signage~~—~~Restrictions.~~

- A. It is unlawful for a person Every person who keeps to keep a dangerous dog within the City must hold without a valid current certificate of r:egistration of a dangerous dog issued by the City. to do so pursuant to RCW 16.08 by the city of Lynden.
- B. A certificate of registration of a dangerous dog may be issued to the owner or keeper of a dangerous dog if said owner or keeper: person may be licensed annually to keep a dangerous dog if he or she complies with all of the following requirements:
1. The owner or keeper of a dangerous dog must be: at least eighteen years of age and regularly reside at the residence at which the dangerous dog is kept;:-
 2. Demonstrates compliance with all mandatory conditions and any optional conditions imposed pursuant to LMC 6.09.070; and Such person annually presents proof that he or she has at least two hundred fifty thousand dollars liability insurance covering any damage or injury which may be caused by the dangerous dog he or she owns, and continually maintains such insurance in effect.

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3. Pays the fee established in the City's unified fee schedule. The fee for a certificate of registration of a dangerous dog shall be in addition to the standard annual dog license fee.

C. 3. Such person has and will maintain the means by which to confine any dangerous dog in a secure enclosure as provided herein.

4. Such person shall display a sign on the premises stating "Dangerous Dog." This sign shall be visible and capable of being read from any adjacent public street or sidewalk. In addition, the owner shall conspicuously display the sign with a warning symbol that informs children of the presence of a dangerous dog.

5. An owner's request to be licensed to keep a dangerous dog may be denied if the city has reasonable cause to believe that such person may not keep a dangerous dog in compliance with the provisions of this chapter, such as because a dangerous dog has previously not been confined in a secure enclosure, or because the owner has a history of other dangerous dog ordinance violations that have occurred in this Lynden or other jurisdictions.

D. 6. A person shall be licensed annually to keep a dangerous dog if he or she complies with all of the requirements of this chapter and RCW 16.08.080(6). Certificates of registration of a Dangerous Dog must be renewed annually. Prior to issuing a renewal, the City shall verify that the owner or keeper remains in compliance with all the requirements of LMC 6.09.080(B).

E. If the licensed owner or keeper of a dangerous dog fails to comply with any provision of this chapter then the certificate of registration of a dangerous dog of the owner or keeper is subject to suspension or permanent revocation.

(Ord. 1298 § A(part), 2007).

6.09.090 ~~Failure to confine dangerous dog or potentially dangerous dog~~Reserved.

A. Every person who causes a violation of the following confinement and/or control requirements is guilty of failure to confine or control a dangerous dog or potentially dangerous dog.

1. An owner or keeper of a dangerous dog or potentially dangerous dog is guilty of failure to confine a dangerous dog or potentially dangerous dog if the owner or keeper fails to ensure that such dog is confined at all times in accordance with this section.

a. An owner and/or keeper of a dangerous dog or potentially dangerous dog shall securely confine such dog indoors or outside in a securely enclosed and locked kennel, fenced pen or enclosed area. Such outdoor structure shall have secure sides and a secure top attached to the sides, and a secure bottom or floor attached to the sides unless the sides are embedded in the ground to a depth of at least two feet. Such outdoor structure shall be locked with a key or combination lock when occupied by a dangerous dog or potentially dangerous dog.

b. When a dangerous dog or potentially dangerous dog is indoors, it shall be in a part of a house or structure which will prevent escape from indoors.

2. An owner or keeper of a dangerous dog or potentially dangerous dog is guilty of failure to control a dangerous dog or potentially dangerous dog if the owner or keeper fails to ensure that such dog is controlled at all times in accordance with this section.

a. No person shall permit a dangerous dog or potentially dangerous dog to go outside of the premises of the licensed keeper unless the dangerous dog or potentially dangerous dog is securely leashed with a tether of no more than four feet, having a minimum tensile strength of three hundred pounds, and controlled by a person physically capable of restricting the dangerous

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dog's or potentially dangerous dog's movements to a radius of no more than three feet from such person. Such dogs shall not be leashed to inanimate objects such as trees or poles. In addition, all dangerous dogs or potentially dangerous dogs shall be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals at all times when they are off the premises of the licensed owner or keeper.

B. Any dog which is declared to be a potentially dangerous dog or dangerous dog shall be required to have a microchip implant for monitoring purposes implanted by a veterinarian of the owner's choice, at the owner's expense. This must be accomplished within thirty days after receipt of the "dangerous dog" or "potentially dangerous dog" declaration issued by the Lynden police chief.

(Ord. 1298 § A(part), 2007).

6.09.100 ~~Sterilization~~Dogs deemed dangerous or potentially dangerous in other jurisdictions.

The owner of any dog determined to be a dangerous dog by any other jurisdiction (1) shall obtain a certificate of registration of dangerous dog from the City pursuant to LMC 6.09.080 within fifteen (15) calendar days of the dog's arrival in the City. In addition, the dog shall be subject to all the mandatory conditions listed in LMC 6.09.070(D).

Any dog determined to be a potentially dangerous dog by any other jurisdiction shall be subject to all the mandatory conditions listed in LMC 6.09.070(B). No person shall keep a dangerous dog over the age of six months at their premises unless such dog has been spayed or neutered and the city has been provided a copy of a veterinarian's certification as to the sterilization.

(Ord. 1298 § A(part), 2007).

6.09.110 ~~Vaccination~~Reserved.

No person shall keep a dangerous dog at their premises unless such dog has been vaccinated against rabies within the last three years and the city has been provided a copy of a veterinarian's certification of rabies vaccination.

(Ord. 1298 § A(part), 2007).

6.09.120 ~~Revocation of license~~Reserved.

If the licensed owner or keeper of a dangerous dog fails to comply with any provision of this chapter, or dangerous dogs kept at the premises of the licensed keeper are not controlled in accordance with the provisions of this chapter, then the license of the owner or keeper is subject to suspension or permanent revocation.

(Ord. 1298 § A(part), 2007).

6.09.130 ~~Impoundment~~Confiscation of Dangerous Dog.

A. Confiscation Authorized. A. A dangerous dog may be seized if it is not being confined or controlled as provided in this chapter. A dangerous dog shall be immediately confiscated by the animal control authority if:

1. The owner or keeper does not have a valid certificate of registration of dangerous dog required pursuant to LMC 6.09.080;

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2. The owner or keeper of a dangerous dog fails to comply with any mandatory condition imposed by a final declaration pursuant to LMC 6.09.070.

~~B. Any dangerous dog which is not being kept by a validly licensed keeper may be seized.~~

~~BC. Notice of Confiscation – Contents. Following seizure and impoundment, the confiscation of the dangerous dog, the Lynden police chief/animal control officer must serve notice upon the dog owner a notice of confiscation, which shall include, at a minimum, the following information:~~

- ~~1. The reason(s) for the confiscation of the dangerous dog;~~
- ~~2. The steps needed to correct the issue(s) that resulted in the confiscation of the dangerous dog;~~
- ~~3. A statement that the owner or keeper of the dangerous dog is responsible for payment of all costs of confinement and control; and~~
- ~~4. A statement that if the issue(s) identified are not corrected within twenty (20) calendar days of the service of the Notice of Confiscation, (i) the dog will be destroyed in an expeditious and humane manner, and (ii) the owner or keeper will be guilty of a gross misdemeanor.~~

~~C. Notice of Confiscation – Service. A notice of confiscation shall be served on the owner or keeper of the dog by one of the following methods:~~

- ~~1. Personal service upon the owner or keeper; or~~
- ~~2. By both certified mail, return receipt requested, and regular mail.~~

~~in person or by regular and certified mail, return receipt requested, specifying the reason for the impoundment of the dangerous dog, that the owner is responsible for payment of the costs of confinement and control, and that the dog will be destroyed in an expeditious and humane manner if the deficiencies for which the dog was confiscated are not corrected within twenty days.~~

~~D. An owner, agent of an owner or keeper of a dangerous dog may petition for the release of such dog. If after no fewer than two days following the seizure no person petitions for release of the dangerous dog, such dog may be humanely destroyed. A dangerous dog whose release has been sought by petition may only be humanely destroyed after opportunity for a hearing before the police chief on the petition for the release of such a dog. The hearing shall occur within five days following the seizure. The format of the hearing shall be informal and need not be recorded.~~

~~E. The dangerous dog may be released to a person validly licensed to keep dangerous dogs after any costs incurred in conjunction with the seizure-confiscation or impoundment have been paid in full.~~

~~F. A dangerous dog may be released to a person who demonstrates his or her ability to protect the public while transporting such dog out of the city of Lynden once all costs have been paid. Said dangerous dog must thereafter be transported out of the city of Lynden within one hour of being released.~~

~~G. A dog that was to be transported out of Lynden may be seized if found within the city limits with a validly licensed keeper or other person. It is a misdemeanor for any person to be within the city limits with a dangerous dog that was transported out of Lynden pursuant to subsection F above.~~

~~H. Any dangerous dog found within the city limits after being transported out of the city limits pursuant to subsection F above may be humanely destroyed after said keeper or person is convicted of the misdemeanor.~~

~~I. A dog that was to be transported out of Lynden pursuant to subsection F above and is running at large will be subject to immediate humane destruction if such dog is again found in the city of Lynden more than one hour after the release.~~

~~(Ord. 1298 § A(part), 2007).~~

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6.09.140 Other remedies.

- A. Nothing in this chapter limits the right of the city or private persons to pursue other lawful criminal, civil or equitable remedies to abate, discontinue or correct violations of this chapter or other risks posed by dogs.
- B. Nothing in this chapter is intended to create a cause of action or claim against the city or its officials or employees running to specific individuals. Any duty created herein is intended to be a general duty running in favor of the public citizenry.

(Ord. 1298 § A(part), 2007).

6.09.150 Affirmative defense – When dogs not to be declared dangerous.

~~It shall be an affirmative defense for a violation of this section~~No dog shall be declared a potentially dangerous dog or dangerous dog if the threat, injury, or damage was sustained by a person who, at the time, (i) of personal injury or damage to property inflicted by a dangerous dog was sustained, an individual was committing a trespass or other tort upon the premises occupied by the owner or keeper of the dog, or (ii) was tormenting, abusing, or assaulting or otherwise provoking the dog, or (iii) has, in the recent past, been observed or reported to have tormented, abused, or assaulted or otherwise provoked the dog, or (iv) was committing or attempting to commit a crime on the premises.

~~(Ord. 1298 § A(part), 2007).~~

6.09.160 Violation—Penalty.

Any person who violates any mandatory or optional condition imposed in a Final Declaration determining a dog to be a potentially dangerous dog pursuant to LMC 6.09.070 shall be guilty of a misdemeanor.

Any person who violates any mandatory or optional condition imposed in a Final Declaration determining a dog to be a dangerous dog pursuant to LMC 6.09.070 shall be guilty of a gross misdemeanor.

Any person who violates the requirements of LMC 6.09.080 shall be guilty of a gross misdemeanor.

Any person who violates the requirements of LMC 6.09.100 shall be guilty of a gross misdemeanor.

Any person who violates any other requirement established in this chapter shall be guilty of a misdemeanor. Any owner or keeper of "potentially dangerous dog" found to be in violation of this chapter, unless otherwise enumerated in this chapter, shall be guilty of a violation of a city ordinance and shall be subject to punishment of a misdemeanor and fine of not more than one thousand dollars or imprisonment for a term not in excess of ninety days.

Any owner or keeper of a "dangerous dog" found to be in violation of this chapter, or otherwise violates or fails to comply with any requirement of this chapter, unless otherwise enumerated in this chapter, shall be guilty of a violation of a city ordinance and shall be subject to punishment of a gross misdemeanor and fine of not more than five thousand dollars or imprisonment for a term not in excess of one year, or both pursuant to RCW 16.08.

~~(Ord. 1298 § A(part), 2007).~~

6.09.170 Exemption – Law enforcement dogs.

The provisions of this chapter shall not apply to any dog kept by a law enforcement agency for law enforcement purposes. Any dog kept by a law enforcement agency for law enforcement purposes is exempt from this chapter.

~~(Ord. 1298 § A(part), 2007).~~

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6.09.180 Conflicts and ~~Validity~~ Severability.

If any section, subsection, sentence, clause, ~~paragraph,~~ or phrase, ~~or word~~ of this chapter is for any reason held to be invalid or unconstitutional ~~by a court of competent jurisdiction,~~ such ~~decision invalidity or unconstitutionality~~ shall not affect the validity of the remaining portions of this chapter. ~~The council hereby declares that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, and if, for any reason, this chapter should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.~~

In the event of any conflict between the provisions of this chapter and Chapter 16.18 RCW, as presently enacted, hereafter amended, or later codified elsewhere, Chapter 16.18 RCW shall control.

~~(Ord. 1298 § A(part), 2007).~~

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