DANGEROUS DOGS AND POTENTIALLY DANGEROUS DOGS

Sections:

6.06.010 Purpose.
6.06.020 Definitions.
6.06.030 Adoption by reference.
6.06.040 Potentially dangerous or dangerous dogs.
6.06.050 Potentially dangerous or dangerous dogs registration.
6.06.060 Liability insurance – Bond or insurance – Required for animals declared.
6.06.070 Hearings.
6.06.080 Immunity.
6.06.090 Enforcement.
6.06.100 Violation – Nondeclaration no defense.
6.06.110 Penalties.
6.06.120 Nonliability.
6.06.130 Severability.

6.06.010 Purpose.

It is the public policy of the city of Langley to secure and maintain levels of animal control as will protect human health and safety, and to the greatest degree practicable to prevent injury to property and cruelty to animals. To this end, it is the purpose of this chapter to provide a means of controlling errant dog behavior so that it shall not become a public nuisance. This chapter shall be construed so as to be consistent with chapter 16.08 RCW. In the event of a conflict between this chapter and any provision of chapter 16.08 RCW, then the applicable provision of chapter 16.08 RCW shall prevail.

6.06.020 Definitions.

Within the provisions of this chapter, the following definitions shall apply:

“Animal control authority” means the Langley police department or its designee, acting alone or in concert with other local governmental units for enforcement of the animal control laws of the city, county, and state.

“Animal control officer” means any individual employed, contracted with or appointed by the animal control authority for the purpose of aiding in the enforcement of this chapter or any other law or city ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals, and includes any state or local law enforcement officer or other employee whose duties in whole or in part include the seizure and impoundment of any animal. This definition shall have the same meaning as in RCW 16.08.070.

“At large” means to be off the premises of the owner or caretaker and not under the immediate control of the owner or caretaker, or the owner’s or caretaker’s agent (including members of the immediate family),
either by leash, cord, chain or otherwise. An animal within a vehicle of its owner shall be deemed to be upon the owner’s premises.

“Dangerous dog” means any dog that according to the records of any governmental entity: (A) inflicts or has inflicted severe injury upon a human being without provocation on public or private property, (B) kills a domestic animal without provocation while off the owner’s property, or (C) has been previously found to be dangerous according to the records of any governmental entity because of an injury inflicted on a human, the owner having received notice, and the dog again aggressively bites, attacks or endangers the safety of humans or domestic animals; provided, a dog shall not be considered or declared dangerous solely on the basis of inflicting bites on a person or by chasing or approaching in a menacing fashion or apparent attitude of attack toward any person who, at the time, was committing a willful trespass or other offense upon the premises occupied by the owner of the dog, or was tormenting, abusing or assaulting the animal, 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.

“License” or “tag” means a prenumbered identification tag acquired by the owner from an authorized agent for a specific animal. Rabies identification or other identification is not a license. “License” also refers to a city of Langley business license.

“Owner” shall have the same meaning as defined in RCW 16.08.070.

“Person” includes individuals, corporations, departments, firms, partnerships, trusts or associations, or other legal entities, and agents of those entities.

“Potentially dangerous dog” means any dog that when unprovoked: (A) bites a human or domestic animal either on public or private property, or (B) chases or approaches a person upon streets, sidewalks or any public or private property in a menacing fashion or apparent attitude of attack, or any animal with a known propensity, tendency or disposition to attack unprovoked, cause injury, or otherwise threaten safety of humans or domestic animals. A dog shall not be considered or declared potentially dangerous solely on the basis of biting a person or by chasing or approaching in a menacing fashion or apparent attitude of attack toward any person who, at the time, was committing a willful trespass or other offense upon premises occupied by the owner of the dog, or was tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime.

“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 as determined in the sole reasonable discretion of the Animal Control Authority to prevent the entry of individuals and other domesticated animals, and to prevent the declared dog from escaping. Such pen or structure shall have secure sides and a secure top. If the pen or structure does not have a concrete floor secured to the sides, then the structure must be embedded in the ground no less than one foot. The pen or structure shall also provide protection from the elements for the dog.
"Proper enclosure of a potentially dangerous dog" means, while on owner's or caretaker's property, a dog which has been declared potentially dangerous shall be confined indoors, or kept in a secured fenced yard suitable as determined in the sole reasonable discretion of the Animal Control Authority to prevent the entry of individuals and other domesticated animals and to prevent declared animal/s from escaping. The fence must meet all setbacks and height restrictions per Title 18 LMC.

"Running at large" means to be off the premises of the owner and not under the immediate control of the owner or other competent person authorized by the owner, by means of a leash, cord or chain, except when in or on any vehicle and securely confined to such vehicle.

"Severe injury" means any physical injury that results in broken bones, disfiguring lacerations requiring multiple sutures, or cosmetic surgery, and has the same meaning as defined in RCW 16.08.070.

6.06.030 Adoption by reference.
The following provisions of the Revised Code of Washington as presently constituted or hereinafter amended are adopted by reference:

RCW

16.08.080 Dangerous dogs – Certificate of registration required – Prerequisites.
16.08.090 Dangerous dogs – Requirements for restraint – Potentially dangerous dogs – Dogs not declared dangerous.
16.08.100 Relating to dangerous dogs.

6.06.040 Potentially dangerous or dangerous dogs.
A. It is unlawful for any owner to have, maintain, or bring into the city any dangerous dog or potentially dangerous dog unless the owner has obtained a certificate of registration for the dog from the city and is in compliance with all of the provisions made applicable to the keeping of these dogs by this chapter. This chapter shall not apply to dogs used by law enforcement for police work.

B. It is unlawful for the owner, custodian, or caretaker of any dog to:

1. Permit a dog which has been declared dangerous or potentially dangerous which remains on the owner’s property to be outside of a proper enclosure of a dangerous dog or a potentially dangerous dog as appropriate.

C. The animal control officer may find and declare a dog dangerous or potentially dangerous if the animal control officer has probable cause to believe that the dog falls within the definition set forth in LMC 6.06.020. The finding must be based upon:

1. The written complaint of a citizen that the dog has acted in a manner which causes it to fall within the definition in this chapter; or
2. Dog bite reports filed with any animal control officer as required by this chapter or state law; or

3. Actions of the dog witnessed by any animal control officer or law enforcement officer; or

4. Other substantial evidence.

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

1. Certified mail to the owner’s or caretaker’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.

E. The declaration shall include:

1. A description of the dog;

2. The name and address of the owner or caretaker of the dog, if known;

3. The whereabouts of the dog if it is not in the custody of the owner;

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

5. The availability of a hearing as provided in LMC 6.06.070;

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

7. Any other matters required by RCW 16.08.080(1) – (3).

F. If the owner of the dog wishes to appeal the declaration of potentially dangerous or dangerous dog:

1. The owner may, within 10 days of receipt of the declaration file a written Notice of Appeal and a $100 appeal fee with the Langley City Clerk. Failure to timely file a Notice of Appeal and appeal fee shall result in dismissal of the appeal.

2. The City Clerk shall set an appeal hearing within 20 business days after timely receipt of the Notice of Appeal and appeal fee. The hearing shall be considered by the Mayor or the Mayor’s designee. The burden of proof shall be on the owner. If the Mayor or designee finds by a preponderance that there is insufficient evidence to support the declaration, it shall be rescinded, and the restrictions imposed thereby annulled.
3. If the Mayor or designee finds by a preponderance sufficient evidence to support the declaration, it may impose costs on the appellant, and may impose additional restrictions on the dog.

4. In the event the court finds that the dog is not a potentially dangerous or dangerous dog, no costs shall be assessed against the City of Langley or the animal control authority or any of its officers.

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

H. The owner of a potentially dangerous or dangerous dog shall obtain a license for such dog from the animal control officer, and shall be required to pay the fee for such license in the amount set forth in this chapter, or as hereafter amended, within 10 days of the service or posting of the declaration unless a court date is requested. The fee shall be due within 10 days of the court date if the court rejects the owner’s request to rescind the declaration. In addition, the owner of a potentially dangerous or dangerous dog shall pay an annual renewal fee for such license in the amount set forth in this chapter, comply with confinement requirements as outlined, and file proof of insurance as outlined in this chapter or as amended after the effective date of the ordinance codified in this title.

6.06.050 Potentially dangerous or dangerous dogs registration.
A. The animal control officer shall issue a certificate of registration to the owner of a potentially dangerous or dangerous dog if the owner presents to the animal control officer sufficient evidence of:

1. A proper enclosure as defined herein to confine a potentially dangerous or dangerous dog and the posting on the premises with a clearly visible warning sign that there is a dangerous or potentially 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 or potentially dangerous dog;

2. Payment of the registration fee as outlined in this chapter;

3. Proof of insurance as outlined under LMC 6.06.060.

B. A certificate of registration as used in this chapter shall be obtained from the animal control officer. The owner of a potentially dangerous or dangerous dog shall obtain a certificate of registration from the animal control officer, and shall be required to pay the fee for the certificate of registration in the amount set forth in this chapter. In addition, the owner of a potentially dangerous or dangerous dog shall pay an annual renewal fee for each potentially dangerous or dangerous dog licensed in the amount set forth this chapter, and shall submit proof of compliance with this chapter.
C. The license fee for each potentially dangerous dog to be licensed under this chapter is $250.00. The annual renewal fee for each potentially dangerous dog licensed under this chapter is $50.00.

D. The license fee for each dangerous dog to be licensed under this chapter is $500.00. The annual renewal fee for each dangerous dog licensed is $100.00.

E. The owner of any potentially dangerous or dangerous dog for which a certification of registration has been issued by the city shall notify the animal control officer in writing whenever the dangerous or potentially dangerous dog has been permanently removed from the city, or becomes deceased.

6.06.060 Liability insurance – Bond or insurance – Required for animals declared.
A. An owner of a dog declared dangerous must either (1) secure a surety bond issued by a surety insurer qualified under chapter 48.28 RCW in a form acceptable to the city of Langley in the sum of at least $250,000, for the benefit of any person injured by the dangerous dog; or (2) secure a policy of liability insurance, such as homeowner’s insurance issued by an insurer qualified under RCW Title 48 in an amount of at least $250,000, insuring the owner for any personal injuries and property damage caused or inflicted by the dangerous dog. See RCW 16.08.080.

B. An owner of a dog declared potentially dangerous must either (1) secure a surety bond issued by a surety insurer qualified under chapter 48.28 RCW in a form acceptable to the city of Langley in the sum of at least $25,000, for the benefit of any person injured by the potentially dangerous dog; or (2) secure a policy of liability insurance, such as homeowner’s insurance issued by an insurer qualified under RCW Title 48 in an amount of at least $25,000, insuring the owner for any personal injuries and property damage caused or inflicted by the potentially dangerous dog.

6.06.070 Prohibited acts.
It shall be unlawful for any person to:

A. Fail to register a dangerous dog within 30 days of bringing the dog into the city limits or after it has been declared a dangerous dog;

B. Fail to secure, and maintain, the liability insurance coverage required herein within 30 days of bringing a dangerous dog into the city limits or after it has been declared a dangerous dog;

(3) Fail to register a potentially dangerous dog within 30 days of bringing the dog into the city limits or after it has been declared a potentially dangerous dog;

C. Fail to keep a dangerous dog or a potentially dangerous dog in a proper enclosure as defined herein;

D. Allow a dangerous dog or a potentially dangerous dog outside of a proper enclosure, unless the dog is muzzled, restrained by a substantial chain or leash and under the physical control of a person over the age of 18 years who is of sufficient size and stature to control the animal. 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.

6.06.080 Hearings.

A. Any owner against whom costs have been assessed under this chapter (other than costs assessed under LMC 6.06.040(F)(3)) may contest the costs by requesting a hearing in the Langley municipal court within 10 days of notification of the costs by the animal control officer.

B. Where an owner has requested a hearing pursuant to this chapter, no potentially dangerous dog or dangerous dog which is in the possession of the animal control officer shall be destroyed until the resolution of such hearing; provided, however, that additional costs in the amount of $15.00 per day shall be assessed against any owner whose potentially dangerous or dangerous dog remains in the custody of the animal control officer during any hearings requested under this chapter where resolution of the hearing is that all or any part of the costs against the owner is found properly assessed.

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

D. Any dangerous 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 costs under this chapter shall be destroyed in an expeditious and humane manner; however, additional costs in the amount of $65.00 for the cost of destroying the dog shall be assessed against the owner, and may be collected as provided in this chapter.

6.06.090 Immunity.
The city of Langley, the animal control officer, and any police officer, city official, employee, or agent of the city shall be immune from any and all civil liability for any actions taken pursuant to this title, or for failure to take action to enforce provisions of this title. It is not the purpose or intent of this chapter to create on the part of Langley 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.

6.06.100 Enforcement.
A. All costs required to be paid by owners pursuant to this chapter shall be made to the city of Langley.

B. No potentially dangerous or dangerous dog confiscated by the animal control officer shall be returned to any owner until the owner has paid all costs or fees which have been assessed against the owner under this chapter.
6.06.110 Violation – Nondeclaration no defense.
The fact that a dangerous or potentially dangerous dog has not been declared as such under this chapter or similar laws in other jurisdictions shall not excuse noncompliance with the provisions of this chapter or provide a defense in any prosecution hereunder where the owner or caretaker knew or should have known the dog was a dangerous dog or potentially dangerous dog as defined in this chapter.

6.06.120 Penalties.
A. Any owner of a potentially dangerous dog who fails to obtain a license or renewal for the dog as described in this chapter shall have committed a civil infraction and shall be assessed a fine in the amount of $250.00; provided, however, that no fine shall be assessed until five days have elapsed from the date the owner is notified by the animal control officer that a license or renewal for the potentially dangerous dog is required, or until any appeal brought under that section has been completed, whichever is later.

B. Any owner of a dangerous dog who fails to obtain a certificate of registration or renewal for a dog as set forth in this chapter shall have committed a civil infraction and shall be assessed a fine in the amount of $500.00; provided, however, that no fine shall be assessed until five days have elapsed from the date the owner is notified by the animal control officer that a license or renewal for the dangerous dog is required.

C. Any dangerous or potentially dangerous dog for which a license or certificate of registration (or renewal) has not been obtained by its owner, is subject to being impounded by the animal control officer. The owner of any potentially dangerous or dangerous dog impounded shall be subject to a fine in the amount of $15.00 per day for each day the dog remains impounded. Any potentially dangerous or dangerous dog impounded due to the failure of the owner 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 a license or certificate of registration (or renewal), may be destroyed in an expeditious and humane manner by the animal control officer.

D. It is unlawful for the owner of a potentially dangerous or 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 the 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 it shall prevent the dog from biting any person or animal. Any owner who violates this provision shall be assessed a fine of $250.00 for each violation thereof.

E. Any potentially dangerous or dangerous dog may be immediately confiscated by an animal control officer if: (1) the dog is not validly registered under this chapter; (2) the owner does not secure the liability insurance or surety coverage required under this chapter; (3) the dog is not maintained in a proper enclosure; (4) the dog is outside of the dwelling of the owner, or outside of the proper enclosure and not
under the physical restraint of a responsible person. In addition, the owner shall be guilty of a misdemeanor punishable in accordance with LMC 1.14.

The owner of any dog confiscated under this chapter may recover the dog from the animal control officer upon the payment of costs which shall be in the amount of $250.00 plus $15.00 per day for each day the dog has been in the control of the animal control officer, provided, however, that in the event the owner has not picked up the potentially dangerous or dangerous dog within 10 days of being notified by the animal control officer that the dog is under the control of the officer, the dog shall be destroyed in an expeditious and humane manner and the owner shall be assessed an additional cost in the amount of $65.00 for the cost of destroying the dangerous or potentially dangerous dog.

F. If an owner of a dangerous dog with either a prior conviction or prior finding of "committed" of a civil infraction attacks and/or bites a person or another domestic animal causing significant injury or death, the dangerous dog shall be immediately impounded and placed in quarantine for the proper length of time as reasonably determined by the Animal Control Authority, and thereafter destroyed in an expeditious and humane manner. The owner of any dangerous dog confiscated and destroyed shall be assessed costs in the amount of $15.00 per day for each day the dangerous dog is quarantined with the animal control authority and the owner shall be assessed an additional cost in the amount of $65.00 for the cost of destroying the dangerous dog.

G. Any dog that has already been declared as potentially dangerous or dangerous and that is running at large shall be in violation. The owner shall be assessed additional costs in the amount of $250.00.

H. 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 the dog is potentially dangerous or dangerous, shall be reported to the animal control authority. In addition, the dog shall be immediately confiscated by an animal control officer, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner. The owner of any potentially dangerous or dangerous dog confiscated and destroyed shall be assessed costs in the amount of $15.00 per day for each day the dog is quarantined with the animal control authority and assessed costs in the amount of $65.00 for destroying the dog.

6.06.130 Nonliability.
Nothing contained in this chapter is intended to be, or shall be, construed to create or form the basis for any liability on the part of the city of Langley, its officers, employees or agents, or by reason or in consequence of any omission in connection with the implementation or enforcement of this section on the part of the city of Langley by its officers, employees or agents.

6.06.140 Destruction.
Whenever the animal control authority comes into possession of a dangerous dog or potentially dangerous dog they shall destroy the same if the dog is not reclaimed by the owner within 30 days. Under no circumstances shall a dangerous dog be sold or given to another as a pet.

6.06.150 Costs.
A. The owner of any dog found to be a potentially dangerous dog or dangerous dog under this chapter shall be assessed all actual service costs expended under this Chapter.

B. The owner of any dog found to be a potentially dangerous dog or dangerous dog under this chapter shall be assessed all costs of confinement for any dog impounded pursuant to a violation of this Chapter.

C. The owner of any dog found to be a potentially dangerous dog or dangerous dog under this chapter shall be assessed all costs of destruction expended for any dog impounded and not reclaimed under 6.06.140.

6.06.160 Failure to reclaim.
Whenever a dog is seized and impounded under this chapter, the failure to either reclaim the dog or to give a written surrender of the dog to the animal control authority shall result in the owner being prohibited from possessing and registering any new dogs in the city for a period of one year. This prohibition shall not apply to the renewal of any existing dog license.

6.06.160 Nuisance.
The harboring, keeping and maintaining of a potentially dangerous dog or dangerous dog contrary to this chapter is a public nuisance and is subject to abatement by judicial procedure or by a summary abatement in an emergency or life-threatening situation. If summary removal of a dog occurs, the dog shall not be destroyed before a hearing can be held concerning the removal and destruction.

6.06.170 Severability.
In the event any term or condition of this chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this chapter which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this chapter are declared severable.

ATTEST; LARRY S. KWARSICK, Mayor
DEBBIE L. MAHLER, Director of Finance/City Clerk

Michael R. Kenyon, City Attorney