

ORDINANCE 2015-264

**AN ORDINANCE AMENDING CITY CODE 90.02 AND 90.03
(DANGEROUS ANIMALS)**

The City Council of the City of Lonsdale hereby ordains:

Lonsdale City Code 90.02 and 90.03 are hereby deleted and in lieu of, the following shall be inserted:

90.02 DANGEROUS DOG.

(A) *Definitions.* For the purpose of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) **POTENTIALLY DANGEROUS DOG.** A dog which has:

- (a) Bitten a human or a domestic animal on public or private property;
- (b) When unprovoked, chased or approached a person upon the streets, sidewalks or any public property in an apparent attitude of attack; or
- (c) Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

(2) **DANGEROUS DOG.** A dog which has:

- (a) Without provocation, inflicted substantial bodily harm on a person on public or private property;
- (b) Killed a domestic animal without provocation while off the owners property;
- (c) Exhibited unusually aggressive behavior, such as an attack on another animal;
- (d) Bitten one or more persons on two or more occasions; or
- (e) Been found to be potentially dangerous, and after the owner has actual or constructive notice of the same, aggressively bites, attacks or endangers the safety of humans or domestic animals or otherwise engages in behavior described in subpart (1), *Potentially Dangerous Dog.*

(3) **PROPER ENCLOSURE.** "*Proper enclosure*" means securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and providing protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

- (a) Have a minimum overall floor size of 32 square feet;
- (b) Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be one and one-fourth inch or larger steel pipe buried in the ground 18 inches or

more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground.

- (c) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches.
- (d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

(4) UNPROVOKED. “*Unprovoked*” means that the animal has not been subjected to an act that an adult could reasonably expect may cause the animal to bite or attack.

(5) ANIMAL CONTROL OFFICER. “*An Animal Control Officer*” means a licensed peace officer employed by the City of Lonsdale.

(6) OWNER. “*Owner*” means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of a dog.

(B) Designation as potentially dangerous dog. An Animal Control Officer shall designate a dog as a dangerous or potentially dangerous upon receiving evidence that the dog engaged in one or more of the behaviors described in subparts (A) (1) or (A) (2)

(C) Exceptions.

(1) An animal may not be designated dangerous or potentially dangerous if the threat, injury, or damage was sustained by a person:

- (a) who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the animal;
- (b) who was provoking, tormenting, abusing, or assaulting the animal or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the animal; or
- (c) who was committing or attempting to commit a crime.

(2) Law enforcement; exemption. The provisions of this section do not apply to dangerous dogs used by law enforcement officials for police work.

(D) Appeal of Designation as Dangerous.

Any owner may appeal a designation of an animal as dangerous, and if applicable, prior potentially dangerous animal designations for the animal.

- (1) A request for an appeal hearing must be made in writing delivered to the Chief of Police within 14 days of the date of service of the notice designating the dog as potentially or dangerous. If no appeal is filed within the specified time, the designation issued by the animal control authority shall be final.

- (2) The hearing shall be held within 14 days of the request to determine the validity of the dangerous dog designation.
- (3) The hearing officer shall be selected by the Chief of Police to conduct the hearing.
- (4) In the event that the dangerous dog declaration is upheld by the hearing officer, actual expenses of the hearing up to a maximum of \$1,000.00 will be the responsibility of the dog's owner.
- (5) The hearing officer shall issue a decision on the matter within ten days after the hearing. The decision must be delivered to the animal's owner by hand delivery or registered mail as soon as practical and a copy must be provided to the animal control authority. If the hearing officer upholds the designation of an animal as dangerous, the owner must comply with all of the requirements of this section within 14 days of service of the hearing officers findings upon the owner.

(E) Notice.

The officer designating an animal dangerous shall give notice of this section by delivering or mailing it to the owner of the animal, or by posting a copy of it at the place where the animal is kept, or by delivering it to a person residing on the property if possible. The notice must include:

- (1) a description of the animal; the authority for and purpose of the dangerous dog designation; the time, place, and circumstances under which the dog was declared dangerous; and, if the dog has been seized, the telephone number and contact person where the dog is kept;
- (2) a statement that the owner of the dog may request a hearing concerning the dangerous dog designation and, if applicable, prior potentially dangerous dog designations for the dog, and that failure to do so within 14 days of the date of the notice will terminate the owner's right to a hearing under this section;
- (3) a statement that if an appeal request is made within 14 days of the notice, the owner must immediately comply with the requirements of sections H (1) and (3) below, and until such time as the hearing officer issues an opinion;
- (4) a statement that if the hearing officer affirms the dangerous dog designation, the owner will have 14 days from receipt of that decision to comply with all other requirements of sections F and H below;
- (5) a form to request a hearing under this subdivision; and
- (6) a statement that all actual costs of the care, keeping, and disposition of the animal are the responsibility of the person claiming an interest in the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. In addition, if the hearing officer upholds the dangerous dog designation, the owner appealing the designation shall be responsible for the actual expenses of the hearing up to \$1,000.00.

(F) Requirements for Dangerous Dogs.

- (1) No person may own a dangerous dog unless the dog is registered as provided in this section.
- (2) Registration. The City shall issue a certificate of registration to the owner of a dangerous dog if the owner presents sufficient evidence that:
 - (a) a proper enclosure exists for the dangerous animal and a posting on the premises with a clearly visible warning sign that there is a dangerous dog on the property, including a warning symbol to inform children;
 - (b) a surety bond issued by a surety company authorized to conduct business in this state in a form acceptable to the animal control authority in the sum of at least \$300,000.00, payable to any person injured by the dangerous dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in this state in the amount of at least \$300,000.00, insuring the owner for any personal injuries inflicted by the dangerous dog;
 - (c) the owner has paid the annual fee of not more than \$250.00, in addition to any regular animal licensing fees, to obtain a certificate of registration for a dangerous dog under this section;
 - (d) for a dangerous dog, the owner has had microchip identification implanted in the animal as required under section Minnesota Statutes 347.515; and
 - (e) a dangerous dog registered under this section must have a standardized, easily identifiable tag identifying the dog as dangerous and containing the uniform dangerous dog symbol, affixed to the dog's collar at all times.

(G) Warning symbol.

If the city issues a certificate of registration to the owner of a dangerous animal pursuant to F (2), it must provide, for posting on the owner's property, a copy of a warning symbol to inform children that there is a dangerous animal on the property. The warning symbol must be the uniform symbol provided by the commissioner of public safety.

(H) Obligations of Owner of Dangerous Dog.

- (1) An owner of a dangerous dog shall keep the dog, while on the owner's property, in a proper enclosure. If the dog is outside the proper enclosure, the animal must be muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the animal or interfere with its vision or respiration.
- (2) An owner of a dangerous dog must renew the registration of the animal annually until the animal is deceased. If the animal is removed from the jurisdiction, it must be registered as a dangerous dog in its new jurisdiction.
- (3) An owner of a dangerous dog must notify the animal control authority in writing of the death of the animal or its transfer to a new location where the animal will reside within 30 days of the death or transfer, and must, if requested by the animal control authority, execute an affidavit under oath setting forth either the circumstances of the animal's death and disposition or the complete name, address, and telephone number of the

person to whom the animal has been transferred or the address where the animal has been relocated.

- (4) An animal control authority shall require a dangerous dog to be sterilized at the owner's expense. If the owner does not have the animal sterilized within 30 days, the animal control authority shall seize the animal and have it sterilized at the owner's expense.
- (5) A person who owns a dangerous dog and who rents property from another where the animal will reside must disclose to the property owner prior to entering the lease agreement and at the time of any lease renewal that the person owns a dangerous dog that will reside at the property.
- (6) A person who transfers ownership of a dangerous dog must notify the new owner that the animal control authority has identified the animal as dangerous. The current owner must also notify the animal control authority in writing of the transfer of ownership and provide the animal control authority with the new owner's name, address, and telephone number.

(I) Obligations of Owner of Potentially Dangerous Dog.

The owner of a potentially dangerous dog shall:

- (a) when the animal is off the owner's premises maintain it under restraint by a responsible person by use of a leash not exceeding six feet in length at all times;
- (b) when the animal is on the owner's premises confine it indoors or within a fenced enclosure sufficient to keep the animal within, or keep the animal on a leash or chain not exceeding six feet in length;
- (c) implant in the dog microchip identification as required under Minnesota Statutes Sec. 347.515.

(J) Review of Designation.

Beginning six months after an animal is designated potentially dangerous or dangerous, an owner may request annually that the animal control authority review the designation. The owner must provide evidence that the animal's behavior has changed due to the animal's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the animal control authority finds sufficient evidence that the animal's behavior has changed, the authority may rescind the dangerous dog designation.

(K) Seizure and Destruction.

- (1) The animal control authority shall immediately seize any dangerous dog if:
 - (a) after 14 days after the owner has notice that the dog is dangerous, the animal is not validly registered or the owner has not secured the proper liability insurance or surety coverage as required under section F above;
 - (b) the animal is not maintained in the proper enclosure;
 - (c) the animal is outside the proper enclosure and not under physical restraint of a responsible person;
 - (d) the animal is not sterilized within 30 days; or

(e) there are subsequent incidents of behavior described in the definitions of potentially dangerous or dangerous dog.

(2) **Reclaimed.**

A dangerous dog seized under (K) may be reclaimed by the owner of the dog upon payment of impounding and boarding fees and presenting proof to the animal control authority that the requirements of this section will be met. A dog not reclaimed under this subpart within seven days may be disposed of in a manner permitted by law and the owner is liable to the animal control authority for costs incurred in confining and disposing of the dog.

(3) If a person has been convicted of a misdemeanor for violating a provision of this section and the person is charged with a subsequent violation relating to the same animal, the animal must be seized by the animal control authority. If the owner is not convicted and the animal is not reclaimed by the owner within seven days after the owner has been notified that the animal may be reclaimed, the animal may be disposed of in a manner permitted by law.

(4) A person claiming an interest in a seized dog may prevent disposition of the animal pending a hearing by posting security in an amount sufficient to provide for the dog's actual cost of care and keeping. The security must be posted within seven days of the seizure inclusive of the date of the seizure.

(5) Notwithstanding sections 347.51 to 347.55, a dog may be destroyed in a proper and humane manner by the animal control authority if the dog:

(a) inflicted substantial or great bodily harm on a human on public or private property without provocation;

(b) inflicted multiple bites on a human on public or private property without provocation;

(c) bit multiple human victims on public or private property in the same attack without provocation; or

(d) bit a human on public or private property without provocation in an attack where more than one dog participated in the attack.

(6) **Hearing.**

The animal control authority may not destroy the dog until the dog owner has had the opportunity for a hearing before an impartial decision maker. The definitions in (A) and the exemptions under (C) apply to this section.

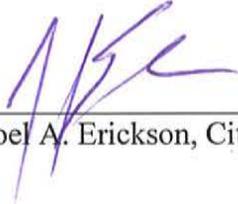
Effective immediately upon approval of the City Council and published in the official newspaper.

Adopted by the City Council of the City of Lonsdale this 30th day of April, 2015.



Tim Rud, Mayor

ATTEST:



Joel A. Erickson, City Administrator

(SEAL)