

## ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE amending Chapter 6.10 of the Lincoln Municipal Code relating  
2 to Dangerous and Potentially Dangerous Dogs by amending Section 6.10.030 to clarify language  
3 related to declaring a dog dangerous or potentially dangerous; adding a new section numbered  
4 6.10.035 to define the duties of an owner of a dog declared dangerous or potentially dangerous;  
5 amending Section 6.10.040 to require that owners of potentially dangerous dogs register their dogs  
6 in the same manner required of the owners of dangerous dogs and to require written confirmation  
7 from a veterinarian that a dangerous or potentially dangerous dog is microchipped; adding a new  
8 section numbered 6.10.045 to make it unlawful to remove any marking used for identification from  
9 a dangerous or potentially dangerous dog; repealing Section 6.10.050 relating to the registration  
10 requirements for potentially dangerous dogs; adding a new section numbered 6.10.055 to prohibit  
11 persons from keeping a dog within the corporate limits of the City of Lincoln that was previously  
12 declared potentially dangerous or dangerous by another animal control authority; amending Section  
13 6.10.060 to change the requirements related to the confinement of dangerous dogs; amending  
14 Section 6.10.070 to require that potentially dangerous dogs be secured by a leash and muzzled when  
15 such dog is beyond its owner's property; amending Section 6.10.090 to change the provisions related  
16 to when dangerous and potentially dangerous dogs may be confiscated by an Animal Control  
17 Officer; adding a new section numbered 6.10.095 to prohibit any person owning a dangerous dog  
18 who is convicted of violating Title 6 of the Lincoln Municipal Code from owning another dangerous  
19 dog for a period of ten years; amending Section 6.10.110 to clarify language related to appealing a  
20 declaration that a dog is potentially dangerous or dangerous; amending Section 6.10.120 to increase  
21 the minimum penalties for violations of Chapter 6.10 of the Lincoln Municipal Code; and repealing  
22 Sections 6.10.030, 6.10.040, 6.10.060, 6.10.070, 6.10.090, 6.10.110, and 6.10.120 of the Lincoln  
23 Municipal Code as hitherto existing.

24 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

1 Section 1. That Section 6.10.030 of the Lincoln Municipal Code be amended to read  
2 as follows:

3 **6.10.030 Dangerous and Dangerous Dogs; Procedure.**

4 Whenever it shall come to the attention of Animal Control that any person within the City  
5 of Lincoln is keeping or harboring a dangerous dog or a potentially dangerous dog as defined in this  
6 chapter, the Chief Animal Control Officer shall notify the owner of such ~~animal dog~~ in writing that  
7 such dog ~~must be registered as~~ is declared a dangerous or potentially dangerous dog and must be  
8 registered accordingly within ten days after the receipt of such written notice. Said notice shall be  
9 served either in person or by mailing such notice by certified or registered mail.

10 Section 2. That Chapter 6.10 of the Lincoln Municipal Code be amended by adding  
11 a new section numbered 6.10.035 to read as follows:

12 **6.10.035 Owner's Duties.**

13 The owner of any dog that has been declared potentially dangerous or dangerous shall have  
14 the following duties:

15 (a) Within fifteen days of the declaration, the owner shall have the dog neutered or  
16 spayed;

17 (b) Within fifteen days of the declaration, the owner shall have the dog implanted with  
18 a microchip identification number by a licensed veterinarian;

19 (c) Register the dog as required by this chapter; and

20 (d) Maintain all additional requirements of this title.

21 Section 3. That Section 6.10.040 of the Lincoln Municipal Code be amended to read  
22 as follows:

23 **6.10.040 Registration Requirements; ~~Dangerous Dogs.~~**

24 (a) The owner of any potentially dangerous or dangerous dog shall register such dog with  
25 Animal Control and upon registration shall provide the following:

26 (1) The name, address and telephone number of the owner;

1 (2) A written description and representation indicating the owner has and will  
2 continue to comply with the confinement provisions of this chapter;

3 (3) Written evidence from a licensed veterinarian that the dog is currently  
4 neutered or spayed;

5 (4) Written evidence from a licensed veterinarian that the dog is microchipped  
6 and provide the microchip identification number;

7 (45) A written acknowledgment that the owner shall notify Animal Control  
8 immediately if said dog is known by the owner to be running at large, ~~unconfined~~, or when the  
9 owner has any knowledge or belief that the dog has bitten or is alleged to have bitten a human being  
10 or ~~another~~ domestic animal;

11 (56) A written acknowledgment that the owner of said dog shall notify Animal  
12 Control of any changes in material recorded as a part of the registration within twenty-four hours  
13 of said change. Changes in material recorded as part of the registration shall include, but are not  
14 limited to, information that the dog has been sold, given away, or otherwise transferred to any other  
15 person, and in that event the registered owner shall provide the director with the name, address, and  
16 telephone number of such person; and

17 (67) A non-refundable yearly registration fee of ~~thirty-five dollars~~ \$25.00 for a  
18 potentially dangerous dog and \$35.00 for a dangerous dog, which fee shall be in addition to any  
19 other license fee required by this title.

20 (b) Upon satisfactory completion of all the requirements of this section, ~~the Chief Animal~~  
21 ~~Control Officer~~ Animal Control shall issue a registration certificate which shall be used to assign  
22 the dog a permanent number. ~~At the time of registration the Chief Animal Control Officer shall~~  
23 ~~either order the owner to have any dangerous dog tattooed by a licensed veterinarian permanently~~  
24 ~~marking the number assigned herein by tattoo upon the inner side of the dangerous dog's right ear~~  
25 ~~or order the owner to have a microchip inserted in any dangerous dog by a licensed veterinarian~~  
26 ~~within thirty days of the date of registration. The owner shall provide Animal Control with the~~  
27 ~~animal's microchip number within thirty days of the date of the registration. It shall be unlawful for~~

1 any owner of such dangerous dog to fail to so mark, tattoo, or microchip such dangerous dog as pro-  
2 vided herein. It shall be unlawful for any person other than a licensed veterinarian to remove any  
3 tattoo, microchip, or any other marking used for identification.

4 (c) The registration requirements including the notification requirements acknowledged  
5 therein shall be construed as affirmative duties upon the owner; ~~failure of which~~ Failure to  
6 perform any of said duties shall constitute a separate violation of this section.

7 (d) It shall be unlawful for any person registering a dog to falsify or misrepresent  
8 material recorded as a part of the registration.

9 Section 4. That Chapter 6.10 of the Lincoln Municipal Code be amended by adding  
10 a new section numbered 6.10.045 to read as follows:

11 **6.10.045 Removal of Identification.**

12 It shall be unlawful for any person to remove any tattoo, microchip, or any other marking  
13 used for identification from a potentially dangerous or dangerous dog.

14 Section 5. That Section 6.10.050 of the Lincoln Municipal Code be and the same is  
15 hereby repealed.

16 ~~**6.10.050 Registration Requirements; Potentially Dangerous Dogs.**~~

17 ~~(a) The owner of any potentially dangerous dog shall register such dog with Animal~~  
18 ~~Control and upon registration shall provide the following:~~

19 ~~(1) The name, address and telephone number of the owner;~~

20 ~~(2) A written acknowledgment that the owner shall notify Animal Control~~  
21 ~~immediately or when the owner has any knowledge or belief that the dog has bitten or is alleged to~~  
22 ~~have bitten a human being or another animal;~~

23 ~~(3) A written acknowledgment that the owner of said dog shall notify Animal~~  
24 ~~Control of any changes in material recorded as a part of the registration within twenty-four hours~~  
25 ~~of said change. Changes in material recorded as part of the registration shall include information~~  
26 ~~that the dog has been sold, given away, or otherwise transferred to any other person, and in that~~  
27 ~~event the registered owner shall provide the director with the name, address, and telephone number~~  
28 ~~of such person; and~~

29 ~~(4) A non-refundable registration fee of twenty-five dollars (\$25.00), which fee~~  
30 ~~shall be in addition to any other license fee required by this chapter.~~

31 ~~(b) Upon satisfactory completion of all the requirements of this section the director shall~~  
32 ~~issue a registration certificate which shall be used to assign the dog a permanent number.~~

1 ~~\_\_\_\_\_ (c) \_\_\_\_\_ The registration requirements including the notification requirements acknowledged~~  
2 ~~therein shall be construed as affirmative duties upon the owner, failure of which shall constitute a~~  
3 ~~violation of this section.~~

4 ~~\_\_\_\_\_ (d) \_\_\_\_\_ It shall be unlawful for any person registering a dog to falsify or misrepresent~~  
5 ~~material recorded as a part of the registration.~~

6 Section 6. That Chapter 6.10 of the Lincoln Municipal Code be amended by adding  
7 a new section numbered 6.10.055 to read as follows:

8 **6.10.055 Designation by Another Animal Control Authority; Unlawful within the City.**

9 No person shall own, harbor, or keep a dog within the city that has been declared to be a  
10 potentially dangerous or dangerous dog by another animal control authority.

11 Section 7. That Section 6.10.060 of the Lincoln Municipal Code be amended to read  
12 as follows:

13 **6.10.060 Dangerous Dogs; Securely Confined.**

14 (a) It shall be unlawful for the owner of a dangerous dog to fail, neglect, or refuse to  
15 securely confine such dog, in a humane manner, indoors or in a securely enclosed and locked pen  
16 or structure suitably designed to prevent the entry of young children and to prevent the dog from  
17 escaping. ~~For materials used to provide a~~ A securely enclosed and locked pen or structure as  
18 required herein, ~~such materials~~ shall, at a minimum, comply with the following:

19 (1) Any fencing material used shall not have openings with a diameter of more  
20 than two inches, or in the case of wooden fence materials, gaps of more than two inches wide;

21 (2) Any gates within such pen or structure shall be lockable or of such design to  
22 prevent the entry of children or the escape of the dog.

23 ~~(b)~~ (3) The required pen or structure shall have secure sides and a secure top. Any  
24 top provided shall be a fence outrigger on the top of the fencing material or an equivalently secured  
25 top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the

1 ground at a depth of at least one foot. The pen or structure shall also protect the dog from the  
2 elements.

3 (4) The pen or structure shall be located at least ten feet from any property line  
4 of the owner.

5 (eb) The owner of a dangerous dog shall securely restrain such dog by chain or leash when  
6 moving the dog to or from such pen or structure.

7 Section 8. That Section 6.10.070 of the Lincoln Municipal Code be amended to read  
8 as follows:

9 **6.10.070 ~~Dangerous Dogs; Leash Required.~~**

10 It shall be unlawful for any owner of a potentially dangerous or dangerous dog to permit such  
11 dog to go beyond the property of the owner unless the dog is restrained securely by a chain or leash  
12 and properly muzzled to reasonably prevent the dog from biting.

13 Section 9. That Section 6.10.090 of the Lincoln Municipal Code be amended to read  
14 as follows:

15 **6.10.090 ~~Dangerous Dogs; Confiscation.~~**

16 An Animal Control Officer ~~may~~ shall confiscate and destroy in an expeditious and humane  
17 manner any dangerous dog that is in violation of this title. An Animal Control Officer may  
18 confiscate and destroy in an expeditious and humane manner any potentially dangerous dog that is  
19 in violation of this title. If the ~~animal~~ dog has bitten a human being or domestic animal, the Animal  
20 Control Officer shall quarantine the dog for the proper length of time. ~~Any dangerous dog may be~~  
21 ~~immediately confiscated by an Animal Control Officer if in violation of this chapter.~~ The owner  
22 shall be responsible for the reasonable costs incurred for the care and destruction of a ~~dangerous~~ the

1 dog ~~confiscated~~ including but not limited to boarding fees and impoundment fees. ~~or for the~~  
2 ~~destruction of any dangerous dog as authorized herein.~~

3 ~~In addition to any other penalty, a court may order the Animal Control authority to dispose~~  
4 ~~of a dangerous dog in an expeditious and humane manner.~~

5 Section 10. That Chapter 6.10 of the Lincoln Municipal Code be amended by adding  
6 a new section numbered 6.10.095 to read as follows:

7 **6.10.095 Dangerous Dogs; Conviction and Future Ownership Prohibited.**

8 It shall be unlawful for any person owning a dangerous dog and who has been convicted of  
9 a violation of this title to own another dangerous dog within ten years after such conviction. If an  
10 owner violates this subsection by owning another dangerous dog, the dangerous dog shall be  
11 immediately confiscated and thereafter destroyed in an expeditious and humane manner.

12 Section 11. That Section 6.10.110 of the Lincoln Municipal Code be amended to  
13 read as follows:

14 **6.10.110 Appeals.**

15 The determination that any dog is dangerous or potentially dangerous as defined herein shall  
16 be deemed to have been made upon notice to the owner of such dog as provided in Section 6.10.030.  
17 ~~Upon such notification and after~~ After the expiration of eleven days from the date of such notice,  
18 the determination shall be final and binding upon the city and upon the owner unless within ten days  
19 after notice, the owner requests, in writing, a review of the determination by the ~~director~~ Director.  
20 At such review the owner may present any written statements or documentary evidence relevant to  
21 the determination. The ~~director~~ Director shall make a final and binding determination after such  
22 review within fifteen days of the date of review. The owner may appeal any final determination to  
23 the district court as provided by law.

1           Section 12. That Section 6.10.120 of the Lincoln Municipal Code be amended to  
2 read as follows:

3       **6.10.120       Penalty.**

4           ~~Any person who shall violate any of the provisions of Section 6.10.060, 6.10.070, or~~  
5 ~~6.10.100 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished~~  
6 ~~by imprisonment in the county jail for a period not to exceed six months or be fined in a sum not to~~  
7 ~~exceed \$500.00 and not less than \$200.00 recoverable with costs, or by both such fine and~~  
8 ~~imprisonment.~~

9           Any person upon whom a duty is placed by the provisions of this chapter who shall fail,  
10 neglect, or refuse to perform such duty, or who shall violate any of the provisions of this chapter for  
11 which a penalty is not specifically provided, shall be deemed guilty of a misdemeanor and upon  
12 conviction thereof shall be punished by imprisonment in the county jail for a period not to exceed  
13 six months or be fined in a sum not to exceed \$500.00 and not less than ~~\$50.00~~ \$200.00 for the first  
14 offense and not less than ~~\$75.00~~ \$300.00 for a second offense, and not less than ~~\$100.00~~ \$500.00  
15 for the third offense and each offense thereafter, recoverable with costs, or by both such fine and  
16 imprisonment.

17           In addition to the penalties for all violations herein provided, the court may order such person  
18 to reimburse the city, and/or a public or private agency for expenses incurred in the care, medical  
19 treatment, impoundment, and disposal of any animal involved in or connected with the incident for  
20 which the complaint was filed.

21           A court, upon finding a person guilty or any violation of this title, may in addition to fines,  
22 imprisonment, costs, or otherwise, order such convicted person to make restitution to any persons  
23 for damage or injury to such person or such person's property.

1           Each day that a violation of this chapter continues shall be punishable as a separate offense.  
2           The penalty herein provided shall be cumulative and in addition to revocation, cancellation, or  
3           forfeiture of any license, permit, or right granted by this chapter or elsewhere.

4           Section 13. That Sections 6.10.030, 6.10.040, 6.10.060, 6.10.070, 6.10.090, 6.10.110,  
5           and 6.10.120 of the Lincoln Municipal Code as hitherto existing be and the same are hereby  
6           repealed.

7           Section 14. That this ordinance shall take effect and be in force from and after  
8           passage and publication in one issue of a daily or weekly newspaper of general circulation in the  
9           City, according to law.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Approved this ___ day of _____, 2010:  _____ Mayor
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