

0-2006-14

AN ORDINANCE

AN ORDINANCE ADDING SECTIONS 6.01.010, 6.03.035, 6.05.031, 6.05.032, 6.05.033, 6.05.034, 6.05.035, 6.05.036, AND 6.08.025 AND AMENDING SECTIONS 6.01.010, 6.03.010, 6.03.030, 6.05.020, 6.05.025, 6.05.030, AND 6.06.010 OF TITLE 6 OF THE LAKEWOOD MUNICIPAL CODE PERTAINING TO ANIMALS

BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. Section 6.01.010 of the Lakewood Municipal Code is hereby amended by the addition of the following definitions to be added alphabetically:

6.01.010 DEFINITIONS

“Bodily injury” means any physical injury that results in severe bruising, muscle tears, or skin lacerations requiring professional medical treatment or any physical injury that requires corrective or cosmetic surgery.

“Domestic animal” means any dog, cat, ferret, or livestock.

“Muzzle” means a restraining device made of metal, plastic, leather, cloth or a combination of these materials that, when fitted and fastened over a snout/mouth/head, prevents the dog from biting but allows room for the dog to breath, pant, and drink water. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.

“Serious bodily injury” means bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or results in breaks, fractures, or burns of the second or third degree.

SECTION 2. Section 6.01.010 of the Lakewood Municipal Code is hereby amended by amending the following definitions:

6.01.010 DEFINITIONS

“Animal owner,” “Owner” or “Owns” means any person over eighteen years of age, firm, corporation, or organization owning, possessing, harboring, keeping, having financial or property interest in, or having control or custody of an animal. ~~who has right~~

~~of property in an animal or who harbors, keeps, or has custody of such animal or allows such animal to remain about his premises.~~

The parent, guardian, or custodian of any child under the age of eighteen ~~who owns, keeps, harbors, or has custody~~ owning, possessing, harboring, keeping, having financial or property interest in, or having control or custody of an animal shall be deemed to be the owner of such animal. An emancipated minor, without direct adult supervision, under the age of eighteen ~~who owns, keeps, harbors or has~~ owning, possessing, harboring, keeping, having financial or property interest in or having control or custody of an animal shall be deemed to be the owner of such animal.

“Common areas of ~~condominiums, townhouses and apartment buildings~~ multiple household dwelling units,” as defined in Title 17 of the Lakewood Municipal Code, include, but are not limited to: the yards, grounds, patios, garden areas, play areas, club houses, swimming pools, sidewalks, walkways, common garage areas, entryways, hallways, and driveways of ~~condominiums, townhouses and apartment buildings, or of condominium, townhouse or apartment building complexes.~~ multiple household dwelling units. For the purposes of this definition, multiple household dwelling units include motels and hotels.

“Running at large” means off the premises of the owner and not under effective control of that owner, his agent, servant, or competent member of his family by means of a leash, cord or chain, reasonable in length; except that, for the purposes of this definition, the “premises of the owner” shall not include common areas of ~~condominiums, townhouses, and apartment buildings~~ multiple household dwelling units and any animal not in the effective control of its owner upon the common area of a ~~condominium, townhouse, or apartment building,~~ multiple household dwelling unit or the grounds thereof, by means of a leash, cord or chain, reasonable in length, shall be deemed to be running at large.

~~“Vicious animal” means an animal that without provocation bites or causes bodily injury to any person or persons.~~

SECTION 3. Section 6.03.010 of the Lakewood Municipal Code is hereby amended and shall be as follows:

#### 6.03.010 ANIMALS RUNNING AT LARGE UNLAWFUL

A. It shall be unlawful for the owner of any dog or other animal, excepting cats, to permit the same to run at large within the city. As used herein, animal means any animal brought into domestic use so as to live and breed in a tame condition, including but not limited to dogs, other household pets, horses, livestock, and animals generally regarded as farm or ranch animals.

B. It is unlawful for any owner of any dog or other animal, excepting cats, to permit ~~the same~~ any such animal to habitually run at large. For the purposes of this ~~subsection,~~ “habitually running at large” shall be defined as any animal, harbored at the

owner's residence, impounded while at large or ~~an~~ any animal which is the subject of a charge of running at large; this must occur a minimum of three times within a twelve month period. Any owner may be cited for this violation.

C. In addition to any penalty imposed upon a conviction for a violation of this section, the court shall order the owner of an animal which is impounded for running at large to pay the boarding and impoundment fees established by the animal shelter and any reasonable and necessary medical expense incurred during the impoundment of the animal regardless of whether or not the animal is redeemed by the owner from the animal shelter.

D. In addition to any other penalty imposed for a violation of subsection (B) of this provision, the court shall order the owner to provide sufficient confinement measures which secure the owner's animals to avoid future at large violations. Animal Control shall inspect the fence or other security measures ordered by the court to ensure compliance with the sentence.

SECTION 4. Section 6.03.030 of the Lakewood Municipal Code is hereby amended and shall be as follows:

#### 6.03.030 IMPOUNDMENT

A. Animals running at large may be taken into custody by Animal Control Officers, or police agents of the city and impounded in a humane manner for a period of not less ~~that~~ than five days following the date of the impoundment; any animal so impounded which is not claimed within said five-day period may be disposed of by sale, adoption, donation, or destruction at the sole discretion of the Animal Shelter. The owner shall be responsible for the payment of such boarding and impoundment fees established by the Animal Shelter and reasonable and necessary medical expenses incurred during the impoundment of the animal regardless of whether or not the animal is redeemed by the owner.

B. The third time within a three-year period that an owner's animal is found to be at large, any such animal shall be taken into custody by Animal Control Officers and impounded in a humane manner. To obtain release of said impounded animal, the owner shall provide proof to the court of sufficient confinement measures, which secure the animal to avoid future at large violations. Animal Control shall inspect the fence or other security measures instituted by the owner to ensure compliance with this provision prior to the animal's court ordered release from impoundment.

SECTION 5. Chapter 6.03 of the Lakewood Municipal Code is hereby amended by the addition of a new section to read as follows:

#### 6.03.035 DUE PROCESS HEARING

A. This section establishes a due process hearing pending trial. This due process hearing shall be conducted as an administrative hearing. Within ten days after an animal is seized pursuant to Subsection 6.03.030(B), the animal's owner may petition the Municipal Court and request the return of the animal. The Court shall conduct such hearing at the earliest date available to the court. At this hearing, the formal rules of evidence shall not apply. If, on the date of the hearing, the owner does not appear, the Court may proceed with the hearing. The Court shall allow the parties to present evidence, witnesses, and have the right of cross-examination. The Court shall consider as applicable the following:

1. Any evidence that the impounded animal was at large during the incident charged;
2. Any prior at large violations by the owner involving any animal and the date of such violations or prior impoundments;
3. The sufficiency of any confinement measures instituted by the owner to secure the owner's animal to avoid future at large violations; and
4. Any other evidence relevant to the issues as determined by the Court.

B. The Court shall order the animal to remain impounded at the owner's expense until Animal Control inspects the fence or other security measures instituted by the owner.

C. If after inspection, the City establishes by a preponderance of the evidence that there is a reasonable likelihood of future at-large violations, the Court shall order the animal to remain impounded at the owner's expense until final disposition of any pending municipal charges.

D. The owner shall be responsible for complying with the financial bonding requirements as set forth in Section 6.06.010.

SECTION 6. Section 6.05.020 of the Lakewood Municipal Code is hereby amended and shall be as follows:

6.05.020 UNLAWFUL POSSESSION OF DANGEROUS ANIMAL

A. A person commits unlawful possession of a dangerous animal if he owns an animal which engages in any of the following conduct within the city:

1. Inflicts or causes bodily injury or serious bodily injury upon a person;

2. Inflicts or causes bodily injury or serious bodily injury upon a domestic animal or causes the death of a domestic animal;

3. ~~Approaches any person, without provocation, in a menacing or terrorizing manner in an attitude of attack; or~~ Possesses an animal that has been determined by a court of record within the state of Colorado to be a vicious or dangerous animal and does not comply with the conditions imposed by state statute, local ordinance, or court order for ownership of said animal.

4. Engages in or has been trained for animal fighting as described and prohibited in Section 18-9-204, C.R.S.

~~B. As used in this section, unless the context otherwise requires:~~

~~1. "Bodily injury" means any physical injury that results in severe bruising, muscle tears, or skin lacerations requiring professional medical treatment or any physical injury that requires corrective or cosmetic surgery.~~

~~2. "Domestic animal" means any dog, cat, ferret, or livestock.~~

~~3. "Injury upon a domestic animal" means any physical injury that results in any puncture wound, severe bruising, muscle tear, skin laceration requiring medical treatment, or fracture of any bone or any other injury that requires corrective surgery.~~

~~4. "Owner" or "Owns" means any person, firm, corporation, or organization owning, possessing, harboring, keeping, have financial or property interest in, or having control or custody of a domestic animal as the term is defined in paragraph (2) of this Subsection (B), including a dangerous animal as set forth in Subsection (A) of this Section.~~

~~5. "Serious bodily injury" has the same meaning as such term is defined in Section 18-1-901, C.R.S.~~

~~B.~~ An affirmative defense to the violation of this Subsection (A) shall be:

1. That, at the time of the attack by the dangerous animal which caused injury to or the death of a domestic animal, the domestic animal was at large, and entered upon the property of the owner and the attack began, but did not necessarily end, upon such property.

2. That, at the time of the attack by the dangerous animal, which caused injury to, or the death of a domestic animal, ~~said~~ the domestic animal was biting or otherwise attacking the dangerous animal or its owner.

3. That, at the time of the attack by the dangerous animal, which caused injury to a person, the victim of the attack was committing or attempting to commit a criminal offense against the animal's owner, and the attack did not occur on the owner's property.

4. That, at the time of the attack by the dangerous animal which caused injury to a person, the victim of the attack was committing or attempting to commit a criminal offense against a person on the owner's property or the property itself and the attack began, but did not necessarily end, upon such property; or

5. That, the person who was the victim of the attack by the dangerous animal tormented, provoked, abused, or inflicted injury upon the animal in such an extreme manner which resulted in the attack.

DC. The affirmative defenses set forth in Subsection (B) of this provision shall not apply to any animal that has engaged in or been trained for animal fighting as said term is described in Section 18-9-204, C.R.S.

ED The provisions of this section shall not apply to the following:

1. To any dog that is used by a peace officer while the officer is engaged in the performance of peace officer duties.

2. To any animal that inflicts bodily injury or serious bodily injury to any veterinary health care worker, animal groomer, humane agency personnel, professional animal handler, or trainer, ~~or animal show judge~~ each acting in the performance of his or her respective duties unless the owner is subject to a court order issued pursuant to Subsection (A)(14) of Section 6.05.030 and the owner has failed to comply with the written notification mandate; or

3. To any dog that inflicts injury upon or causes the death of a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of or under the control of the dog's owner and the injury or death was to a domestic animal naturally associated with the work of such dog.

FE. The provisions of this section shall not apply to any conduct which constitutes a felony under state law.

SECTION 7. Section 6.05.025 of the Lakewood Municipal Code is hereby amended and shall be as follows:

#### 6.05.025 IMPOUNDMENT OF DANGEROUS ANIMAL

A. Mandatory impoundments. Upon citation of an owner for a violation of Section 6.05.020, Animal Control Officers shall take into custody the owner's dangerous animal and place the animal in the shelter at the owner's expense pending final

disposition of the charge against the owner, if the victim of the offense is a person who has suffered bodily or serious bodily injury; when the owner has failed to comply with the restrictions imposed by state statute, local ordinance; or court order for the possession of an animal determined to be dangerous or vicious; or if the animal has been engaged in or been trained for animal fighting.  ~~, and place the animal in the animal shelter at the owner's expense.~~

B. Discretionary impoundments. Upon citation of an owner for a violation of Section 6.05.020, Animal Control Officers may take into custody the owner's dangerous animal and place the animal in the animal shelter at the owner's expense pending final disposition of the charge against the owner, if the victim of the offense is a domestic animal.  ~~or if the dangerous animal has approached any person, without provocation, in a menacing or terrorizing manner in an attitude of attack, and place the animal in the animal shelter at the owner's expense pending final disposition of the charge against the owner.~~

C. An animal shall remain impounded unless otherwise ordered released by the Court. The owner shall be liable for the total cost of board and care for an animal impounded pursuant to this subsection. The Court shall order any convicted owner or any owner who entered into a deferred judgment or deferred prosecution to make payment to the animal shelter for all impoundment fees, boarding costs, and any reasonable and necessary medical expenses incurred during the impoundment of the animal. If impoundment cannot be safely made, the animal may be destroyed, as set forth in Section 6.03.060, without notice to the owner.

SECTION 8. Section 6.05.030 of the Lakewood Municipal Code is hereby amended and shall be as follows:

6.05.030 ~~DISPOSITION OF~~ DANGEROUS ANIMAL CONDITIONS

~~A. The Court shall order any convicted owner or any owner who enters into a deferred judgment or deferred prosecution whose animal injured or destroyed any domestic animal, to make restitution to the injured or dead domestic animal's owner pursuant to applicable provisions governing restitution. Restitution shall be equal to the greater of the fair market value or the replacement cost of the domestic animal on the date, but before the time, the animal was injured or destroyed plus any reasonable and necessary medical expenses incurred in treating the animal and any actual costs incurred in replacing the injured or destroyed animal.~~

~~B. The Court shall order any convicted owner or any owner who enters into a deferred judgment or deferred prosecution, whose animal inflicted bodily injury or serious bodily injury upon any person, to make restitution pursuant to the provisions governing restitution.~~

~~C. The Court may order any owner of a dangerous animal who has been convicted of a violation of Section 6.05.020 to confine such dangerous animal in a building or enclosure designed to be escape proof and, whenever such animal is outside of such building or enclosure, keep the animal under such owner's control by use of a leash. In addition, if the conviction is for a second or subsequent offense, the Court may order such dangerous animal to be muzzled whenever it is outside of the building or enclosure.~~

~~D. In addition to the penalties set forth in Subsections (A) to (C) of this Section and set forth in Section 6.08.020, any convicted owner or owner who enters into a deferred judgment or deferred prosecution for a violation that results in serious bodily injury to a person or death to a domestic animal or a second or subsequent violation of Section 6.05.020 resulting in a conviction or a deferred judgment or a deferred prosecution involving the same animal, the Court may order that the dangerous animal be destroyed by lethal injection upon exhaustion of any right an owner has to appeal a conviction based on a violation of Section 6.05.020.~~

A. Upon conviction or entry of a plea of guilty or no contest or entry into a deferred judgment to a charge of possession of a dangerous animal by the owner, the court shall order that the animal subject to the charge shall only be possessed upon the owner's compliance with the following conditions:

1. The owner shall, at the owner's expense, have the animal spayed or neutered and shall provide proof to the Animal Control Section of the Lakewood Police Department that the sterilization has been performed;

2. The owner shall, at the owner's expense, have a microchip containing an identification number implanted into the animal and provide such information to the Animal Control Section of the Lakewood Police Department. The owner shall produce the animal for verification by Animal Control of the microchip implementation. Animal Control shall maintain records containing the registration number and name of said animal and the name and address of the owner. The owner shall be responsible for notifying Animal Control of any change in address, ownership, or death of the animal.

3. At all times when the animal is at the property of the owner, the owner shall keep the animal confined except as further allowed by this Section. When outdoors, the animal shall be confined in an escape proof enclosure. All structures must be locked with a key or combination lock when the animal is within the structure. Such structure shall have a secure bottom or floor attached to the sides of the pen or the sides of the pen shall be embedded in the ground no less than two (2) feet. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. All structures erected to house such animal must comply with all zoning and building requirements. Animal Control shall inspect the structure to ensure compliance with said conditions.

4. No animal may be kept on a porch, patio, or in any part of a house or structure that would allow the animal to exit such building upon its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen door are the only obstacle preventing the animal from exiting the structure.

5. When outdoors in a private yard, the animal must be in the secure enclosure or in the physical presence of a responsible adult, who is a minimum of 21 years of age and is capable of effectively controlling the animal, and inside of a secure six-foot fence enclosure. Animal Control shall inspect the fence to ensure compliance with said condition. An electronic fence does not comply with the mandates of this subsection.

6. At all times when the animal is off the property of the owner, the animal shall be muzzled and either placed within a secure temporary enclosure, or secured by a leash of no longer than four (4) feet in length held by a responsible adult, who is a minimum of 21 years of age and is physically capable of controlling the animal. Extension style leashes shall not be used.

7. The animal may not be leashed to any inanimate object.

8. The owner shall post, at each entrance to the owner's property where the animal is kept, a conspicuous and clearly legible sign of at least eight (8) by ten (10) inches, which shall contain the words "BEWARE, DANGEROUS ANIMAL" in lettering at least two (2) inches in height.

9. The owner shall not sell or transfer the animal to any person except a member of the owner's immediate family who shall then be deemed the owner and subject to all the requirements of this title. For the purposes of this subsection, "immediate family" shall mean the owner's spouse, child, parent, or sibling.

10. The owner shall immediately notify the police department or Animal Control in the event that the animal is at-large, stolen, or has acted in a dangerous or aggressive manner.

11. The owner may temporarily transport the animal through the City. During such transport, the animal must be muzzled and confined either within a secure temporary enclosure or by a leash no longer than four (4) feet in length, which is held by a responsible adult who is a minimum of 21 years of ages, and is capable of effectively controlling the animal.

12. The owner whose animal injured or destroyed any domestic animal shall make restitution to the injured or dead domestic animal's owner pursuant to applicable provisions governing restitution. Restitution shall be equal to the greater of the fair market value or the replacement cost of the domestic animal on the date, but before the time, the animal was injured or destroyed plus any reasonable and

necessary medical expenses incurred in treating the animal and any actual costs incurred in replacing the injured or destroyed animal.

13. The owner whose animal inflicted bodily injury or serious bodily injury upon any person, shall make restitution pursuant to the provisions governing restitution.

14. Prior to the dangerous animal receiving any service or treatment, the owner shall disclose in writing to any provider of the service or treatment, including but not limited to a veterinary health care worker, dog groomer, humane agency staff person, pet animal care facility staff person, professional animal handler, or dog trainer, each acting in the performance of his respective duties, that the dangerous animal has been the subject of a conviction.

15. The animal shall be currently inoculated against rabies and shall display rabies and identification tags in compliance with Section 6.04.010 of this title.

B. Upon conviction or entry of a plea of guilty or no contest or entry into a deferred judgment to a charge of possession of a dangerous animal by the owner, the court may order that the animal subject to the charge shall only be possessed upon the owner's compliance with the following conditions:

1. No other dog shall be possessed or harbored at the owner's residence during the period of court ordered supervision.

2. The owner shall present to Animal Control proof that the owner has procured homeowner's or renter's liability insurance in a minimum amount of \$100,000 covering any future damage or injury caused by the subject animal during the period of court ordered supervision.

3. Community service work at an animal shelter

4. Successful completion of a court approved animal obedience training, behavior modification, pet management class, and/or any other treatment program or training that the court may deem appropriate. The owner shall bear the cost of the program or training.

C. It shall be unlawful for any person to fail to comply with the requirements of this section and any such violation shall subject the violator to prosecution for unlawful possession of a dangerous animal pursuant to this chapter.

SECTION 9. Chapter 6.05 of the Lakewood Municipal Code is hereby amended by the addition of a new section to read as follows:

6.05.031 EUTHANIZATION OF DANGEROUS ANIMAL

In addition to the penalties set forth in Section 6.05.030, any convicted owner or owner who enters into a deferred judgment for a violation that resulted in serious bodily injury to a person or death to a domestic animal or a second or subsequent violation of Section 6.05.020 which resulted in a conviction or a deferred judgment involving the same animal, the Court may order that the dangerous animal be humanely destroyed by lethal injection upon exhaustion of any right an owner has to appeal the conviction.

SECTION 10. Chapter 6.05 of the Lakewood Municipal Code is hereby amended by the addition of a new section to read as follows:

6.05.032 UNLAWFUL POSSESSION OF AGGRESSIVE ANIMAL

A. A person commits unlawful possession of an aggressive animal if he owns an animal which engages in any of the following conduct within the city:

1. Approaches any person, without provocation, in a menacing manner, whether or not an attack actually occurs.

2. In an attacking manner encroaches over, through, or under a fence onto the public or the private property of another; or

3. Inflicts a puncture wound, abrasion, or other wound caused by the animal's teeth upon a person or a domestic animal which injury does not meet the definition of bodily injury or serious bodily.

B. The affirmative defenses and exceptions set forth in Section 6.05.020, Possession of Dangerous Animal, shall be applicable to any prosecution for a violation of this section.

SECTION 11. Chapter 6.05 of the Lakewood Municipal Code is hereby amended by the addition of a new section to read as follows:

6.05.033 IMPOUNDMENT OF AGGRESSIVE ANIMAL

A. Mandatory impoundments. Upon citation of an owner for a violation of Section 6.05.032, Animal Control Officers shall take into custody the owner's aggressive animal if the animal has previously been the subject of a conviction for dangerous animal or aggressive animal pursuant to this chapter and place the animal in the animal shelter at the owner's expense pending final disposition of the charge against the owner.

B. Discretionary impoundment. Upon citation of an owner for a violation of Section 6.05.032, Animal Control Officers may place the animal in the animal shelter at the owner's expense pending final disposition of the charge against the owner.

C. The owner shall be responsible for the payment of all impoundment fees, boarding fees, and any reasonable and necessary medical expenses incurred during the impoundment of the animal regardless of whether or not the animal is redeemed by the owner from the animal shelter.

SECTION 12. Chapter 6.05 of the Lakewood Municipal Code is hereby amended by the addition of a new section to read as follows:

6.05.034 AGGRESSIVE ANIMAL CONDITIONS

A. Upon conviction or entry of a plea of guilty or no contest or entry into a deferred judgment to a charge of possession of an aggressive animal, the court shall order that the animal subject to the charge shall only be possessed upon the owner's compliance with the following conditions:

1. The owner shall, at the owner's expense, have a microchip containing an identification number implanted into the animal and provide such information to the Animal Control Section of the Lakewood Police Department. The owner shall produce the animal for verification by Animal Control of the microchip implementation. Animal Control shall maintain records containing the registration number and name of said animal and name and address of the owner. The owner shall be responsible for notifying Animal Control of any change in the address, ownership, or death of the animal.

2. An extension style leash shall not be used upon said animal.

3. The animal shall not be leashed to any inanimate object.

4. The animal shall be currently inoculated against rabies and shall display rabies and identification tags in compliance with Section 6.04.010 of this title.

B. Upon conviction or entry of a plea of guilty or no contest or entry into a deferred judgment to a charge of possession of an aggressive animal, the court may order that the animal subject to the charge shall only be possessed by the owner upon the owner's compliance with the following conditions:

1. Community service work at an animal shelter.

2. Successful completion of a court approved animal obedience training, behavior modification, pet management class, and/or any other treatment program that the court may deem appropriate. The owner shall bear the cost of the program or training.

3. The owner shall, at the owner's expense, have the animal spayed or neutered and shall provide proof to the Animal Control Section of the Lakewood Police Department that the sterilization has been performed.

SECTION 13. Chapter 6.05 of the Lakewood Municipal Code is hereby amended by the addition of a new section to read as follows:

6.05.035 EUTHANIZATION OF AGGRESSIVE ANIMAL

In addition to the penalties set forth in Section 6.05.034, any convicted owner or owner who enters into a deferred judgment for a second or subsequent violation of Section 6.05.032 involving the same animal or any owner who has been previously convicted or entered into a deferred judgment for a violation of Section 6.05.020 involving the same animal, the Court may order that the aggressive animal be humanely destroyed by lethal injection upon exhaustion of any right an owner has to appeal the conviction

SECTION 14. Chapter 6.05 of the Lakewood Municipal Code is hereby amended by the addition of a new section to read as follows:

6.05.036 DUE PROCESS HEARING

A. This section establishes a due process hearing pending trial. The Municipal Court shall conduct this due process hearing. Within ten days after an animal is seized pursuant to this chapter, the animal's owner may petition the Municipal Court and request the return of the animal. The court shall conduct such hearing at the earliest date available to the court. At the hearing the formal rules of evidence shall not apply. If, on the date of the hearing, the owner does not appear, the Court may proceed with the hearing. The Court shall allow the parties to present evidence, witnesses, and have the right of cross-examination. The Court shall consider as applicable the following:

1. The conduct of the animal during the incident charged;
2. Any evidence of dangerous, aggressive, or violent behavior by the animal or threats thereof;
3. Any prior violations by the owner of this title or any municipal ordinance, or the laws of any state or political subdivision thereof which involves an other animal;
4. Any prior violations by any other owner, involving the same animal, of any violations of this title or any municipal ordinance, or any laws of the state or political subdivision thereof;

5. Any conditions existing on the property where the animal has been or will be kept which would affect the likelihood of any danger to any person, animal or property;

6. Any evidence of any ameliorative action taken by the owner of the animal which would affect the likelihood of any danger to any person, animal or property, and

7. Any other evidence relevant to the issues as determined by the Court.

B. If, at the hearing, the City establishes by a preponderance of the evidence that there is a reasonable likelihood of future injury to persons, property, or animals, the court shall order the animal to remain impounded at the owner's expense until final disposition of any pending municipal charges.

C. The owner shall be responsible for complying with the financial bonding requirements as set forth in Section 6.06.010.

SECTION 15. Section 6.06.010 of the Lakewood Municipal Code is hereby amended and shall be as follows:

6.06.010 FINANCIAL BONDING REQUIREMENTS FOR COSTS OF HOLDING IMPOUNDED ANIMALS

A. Whenever an animal has been impounded pursuant to this title except per Section 6.03.030 (A), ~~The owner or custodian of an animal that has been impounded by an animal control officer, a police agent, or an impound agency because of a violation of alleged neglect or abuse, or because of investigation of charges of cruelty to animals or unlawful possession of a dangerous animal as described in Sections 6.07.010, 6.07.020, and 6.05020, respectively,~~ may prevent disposition of the animal by an impound agency by posting a bond with the municipal court in an amount sufficient to provide for the animal's care and keeping including reasonable veterinary care and treatment at the impound agency for at least thirty days, including the day on which the animal was taken into custody. Such bond shall be filed with the municipal court within ten days after the animal is impounded. At the end of the time for which expenses are covered by the bond, if the owner ~~or custodian~~ desires to prevent disposition of the animal, the owner ~~or custodian~~ shall post a new bond with the court within ten days after the prior bond's expiration. However, the court shall order the immediate disposition of the animal by euthanasia if, in the opinion of a veterinarian, the animal is experiencing extreme pain or suffering. At the end of the time of which expenses are covered by the bond, the impound agency may determine disposition of the animal unless there is a court order prohibiting such disposition. The owner ~~or custodian~~ shall be liable for the cost of the care, keeping, or disposal and including reasonable veterinary care and treatment of the animal regardless of the results of any municipal charges or any due process hearing.

B. A dog that is not claimed by its owner within five days after being eligible for release from impoundment for investigation of a charge of unlawful possession of a dangerous animal as described in Section 6.05.020 or investigation of a charge of unlawful possession of an aggressive animal as described in Section 6.05.032 shall be deemed abandoned and may be disposed of as the impound agency deems proper.

C. For the purposes of this section, "Impound Agency" means an agency, including but not limited to an animal shelter as defined in Section 35-80-102(1), C.R.S., that impounds an animal pursuant to the provisions of ~~subsection (A) of this section or Section 6.07.105.~~ this title.

SECTION 16 Chapter 6.08 of the Lakewood Municipal Code is hereby amended by the addition of a new section to read as follows:

6.08.025 HABITUAL ANIMAL OFFENDER

It shall be unlawful to be a habitual animal offender. For the purposes of this section, a habitual animal offender shall mean any animal owner, who within any twelve-month period, is charged with three violations, arising out of separate incidents, of this title, any provision of Title 9 which pertains to animals, or any provision of Title 17 which pertains to household pets from which conviction, guilty plea, no contest plea, deferred judgment, or plea bargain results. The controlling date is the date of each animal ordinance violation, not the date of the plea entered or the conviction resulting therefrom.

SECTION 17. This ordinance shall take effect thirty (30) days after final publication.