



City of Grand Island

Tuesday, March 25, 2014

Council Session (Corrected)

Item F-2

#9479 - Consideration of Amending Chapter 5 of the Grand Island City Code Relative to Animals

Staff Contact: Stacy Nonhof, Assistant City Attorney

Council Agenda Memo

From: Stacy R. Nonhof, Assistant City Attorney
Meeting: March 25, 2014
Subject: Chapter 5 Code Changes
Item #'s: F-2
Presenter(s): Stacy R. Nonhof, Assistant City Attorney

Background

Periodically the City Of Grand Island takes an in-depth look at the Code to determine if any changes need to be made. Over the past year, the Legal Department has been looking in-depth at Chapter 5 Animals. The purpose of this analysis was to determine what provisions of the Code work effectively and what needs to be modified. The Legal Department worked closely with the Central Nebraska Humane Society to analyze the way the Code is enforced and what issues the Animal Control Officers are encountering. After numerous drafts, the proposed changes were presented by the Legal Department to the Animal Advisory Board. The Animal Advisory Board then met to discuss the proposed changes and to either approve or disapprove proposed changes. What is being presented tonight are the changes approved by the Animal Advisory Board.

Discussion

Two Study Sessions were held on March 4 and 18, 2014 to discuss the proposed changes in detail. The goal of the proposed changes is to provide more definition where needed and to increase the enforceability of these regulations. The proposed changes aim to improve the living conditions of the animals of Grand Island. Numerous discussions regarding enforcement of the Code were held prior to these proposed changes. These changes are a result of those discussions and the discussions that took place at the prior Study Sessions. Changes made to the proposed Ordinance after the final Study Session held on March 18 have been done in blue lettering. All other proposed changes to Chapter 5 are in red lettering. Detailed below are a few of the more significant proposed changes.

Section 5-7.1 was added to address a concern about people selling and giving away animals in parking lots of businesses and on other private property. Previously, there has been no regulation of these transactions. Restraint systems and enclosures have been

addressed to make it safer for the animals of Grand Island. Minimum standards for pet owners were discussed and added to section 5-21. A provision has been added to animal cruelty to prevent people from leaving animals in vehicles, trailers or dwellings during extreme weather conditions that endanger the health and welfare of the animal. Section 5-34.1 was removed after it was discovered that this provision of the Code is not used and no longer needed.

Section 5-36.1 has been added to require owners of animals that have been declared dangerous or potentially dangerous to get the animal spayed or neutered and micro chipped within 30 days of the declaration. The purpose is to modify the behavior of the animal to prevent another incident similar to the one that got the animal declared dangerous or potentially dangerous. The science behind the behavior modification due to an animal being spayed or neutered was part of the discussion when writing this provision.

Section 5-46 has been completely re-written. This section now provides an avenue for the City to address the issue of problem owners. In the past the idea has been that there are only problem pets in the City. The issue of problem pets can be traced to problem owners. After reviewing cases that have been prosecuted by the Legal Department a pattern emerged. The pattern that emerged was the same pet owners being cited numerous times for the same violations. These repeat offenders are the pet owners that this section of the Code was designed to deal with. These are owners that do not try and correct a deficiency in the care and treatment of their animal. These are the owners that continually allow their animals to run at large. These are the owners that mistreat their animals either through cruelty or neglect. The purpose of this section is to hold the owners of animals accountable. We would like to try and turn irresponsible pet owners into responsible pet owners.

Section 5-16 was discussed at the March 18 Study Session. No changes are being proposed at this time to this section. If Council desires that changes be made, Council may so direct City staff to study the situation and then draft language to change this section of the Code. It is not recommended to remove this section at this time. If this section were removed at this time, there would be no regulation in place for the placement of enclosures. The effect of the removal would be to allow property owners to place a *new* enclosure closer to neighboring property than what is currently prescribed. Council suggested at the March 18 Study Session that this section be amended to prohibit new buildings and/or development being built closer than 75 feet to a currently existing animal enclosure. The Legal Department has not made this suggested change at this time for the following reasons:

1. Zoning and building codes dictate only what one can do with *their own* property – not what a neighbor can do with their property.
2. To make this proposed change, the zoning regulations in Chapter 36 would have to be changed. The procedure for changing zoning regulations is:
 - a. A request is made in writing to amend the zoning ordinance.
 - b. The request is reviewed by the Planning Commission.

- c. The Planning Commission makes a recommendation to City Council that must be voted on.
3. Currently, R-1 zoned lots must be a minimum of 9,000 square feet. If this 75 foot restriction around existing enclosures were implemented, future lots would lose a portion of their lot measuring 75 feet in depth.
4. The restriction would limit future development.
5. A determination would have to be made as to who is responsible for compensating these new lot owners for the 75 feet that they can no longer build upon.
6. Pursuant to Zoning Code (Chapter 36 of City Code), a non-conforming use of property can continue with a new owner for that property. The non-conforming use will cease to be allowed if the non-conforming use is not utilized for a period of 12 months, i.e., if a new owner does not have horses on the property for a period of 12 months and then wants to have horses they will not be allowed because the prior non-conforming use had been discontinued.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council approve Ordinance No. 9479 amending Chapter 5 of City Code.

Sample Motion

Move to approve Ordinance No. 9479.

ORDINANCE NO. 9479

An ordinance to amend Chapter 5 of Grand Island City Code; to amend various sections beginning at Section 5-1 and ending at Section 5-47; and to add Section 5-7.1 and Section 5-36.1; and repeal Section 5-34.1; to clarify and/or make general corrections to various code sections, to repeal any ordinance or parts of ordinances in conflict herewith; and to provide for publication and the effective date of this ordinance.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA:

SECTION 1. Sections 5-1 thru Section 5-47; and Sections 5-7.1 and Section 5-36.1; and Section 5-34.1 of the Grand Island City Code is hereby amended to read as follows:

CHAPTER 5 ANIMALS

Article I. General

§5-1. Definitions

As used in this chapter, the following terms mean:

Abandon. **Means** **T**o leave any animal in one's care, whether as owner or custodian, for any **unreasonable** length of time without making effective provision for its food, water, or other care as is reasonably necessary for the animal's health.

Animal. Any live, **member of the Animal Kingdom with the following exceptions:** ~~vertebrate creature other than human beings.~~

1. **Human beings;**
2. **Animals that are sold commercially as food for human consumption;**
3. **Animals that are slaughtered as food for human or animal consumption;**
4. **Animals that are slaughtered or processed for human use;**
5. **Animals that are used for scientific research conducted at commercial or academic facilities;**
6. **Animals that are used as commonly acceptable bait for lawful fishing activities; or**
7. **Vermin.**

Animal Abuse. To knowingly, willfully, ~~and~~ intentionally **or inhumanely** kill, maim, injure, torture, or beat an animal with the following exceptions:

1. **Euthanization or treatment by a Veterinarian or at a Veterinary Hospital or Clinic;**
2. **Euthanization or treatment at an Animal Control Facility;**
3. **Killing or injuring by members of law enforcement or Animal Control Officers in the course of their duties;**
4. **Killing or injuring by persons protecting themselves or others from potential death or serious injury; or**

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5. Training or disciplining an animal using commonly accepted methods.

Animal Control Authority. The entity contracted to enforce the City of Grand Island's animal control laws. This also includes any law enforcement agencies authorized to enforce local, State, or Federal animal control laws.

Animal Control Officer. ~~Means a~~Any person employed or designated by any Animal Control Authority or law enforcement agency to enforce local, State, or Federal animal control laws. ~~member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of any city or village, Health Department employee, employee of the Animal Control Authority, or any other public official authorized by the City to enforce state or local animal control laws, rules, regulations, or ordinances.~~

Animal Control Authority. ~~Shall mean an entity authorized to enforce the animal control laws of the City designated by the City Council.~~

Animal Shelter. Any facility operated by the City or by the duly authorized Animal Control Authority for the purpose of impounding or caring for animals held under the authority of this chapter.

Anti-Escape Barrier. Any housing, fencing, or device humanely designed to prevent a dog from leaving an area.

Auctions Facility. Any commercial establishment place or facility where animals are regularly bought, sold, or traded, except for those facilities otherwise defined in this ordinance. This section does not apply to individual sales of animals by owners.

Bedding. Dry material such as straw, cedar or wood chips, or any other absorbent material that provides insulation.

Birds. Any feathered vertebrate, including pigeons, but excluding poultry.

Bite. Any seizure with the teeth or mouth by an animal which causes injury or harm.

Boarding Kennel. Any commercial facility used to house animals owned by persons other than the owner or operator.

Breeder. Any person or entity engaged in breeding and/or selling more than ten (10) animals in any twelve (12) month period.

Circus. A commercial variety show featuring animal acts for public entertainment.

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Commercial Animal Establishment. Any pet shop, grooming shop, auction facility, riding school or stable, ~~circus~~, performing animal exhibition, or kennel ~~(this term shall not include a veterinary hospital or veterinary clinic)~~ with the following exceptions:

1. An animal shelter;
2. A veterinary hospital or clinic;
3. A commercial facility that sells, slaughters, or processes animals; or
4. A commercial or academic animal research facility.

Cruelly mistreat. Means ~~to~~ knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise inflict harm upon any animal.

Cruelly neglect. Means ~~to~~ fail to provide any animal in one's care, whether as owner or custodian, with food, water, or other care as is reasonably necessary for the animal's health.

Dangerous Animal. Means ~~a~~ An animal that ~~(i)~~ has killed a human being; ~~(ii)~~ has inflicted injury on a human being that requires medical treatment, or; ~~(iii)~~ has killed a domestic animal without provocation with the following exceptions;; ~~or (iv) has been previously determined to be a potentially dangerous animal by an animal control authority or animal control officer, the owner has received notice of such determination, and the animal inflicts an injury on a human being that does not require medical treatment, injures a domestic animal, or threatens the safety of humans or domestic animals. An animal shall not be defined as a dangerous animal hereunder if the individual was tormenting, abusing, or assaulting the animal at the time of the injury or has, in the past, been observed or reported to have tormented, abused, or assaulted the animal. An animal shall not be defined as a dangerous animal if the injury, damage, or threat was sustained by an individual who, at the time, was committing a willful trespass, was committing any other tort upon the property of the owner of the animal, was tormenting, abusing, or assaulting the animal, or has, in the past, been observed or reported to have tormented, abused, or assaulted the animal, or was committing or attempting to commit a crime.~~

1. An animal that is provoked;
2. An animal that is serving as a guard for persons or property; or
3. An animal that kills or injures a person who is trespassing.

Domestic animal. Shall mean a cat, a dog, or livestock.

Enclosure. Any tract of land intended to restrain or contain an animal by means of a building, fence, or any other means.

Fowl. Any poultry, other than pigeons.

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Grooming Shop. A commercial establishment where animals are bathed, clipped, plucked, or otherwise groomed.

Health Department. ~~Means the Central District Health Department or any~~ The agency or organization with which the City contracts with or designates to enforce the provisions of Chapter 5 - Animals of the Grand Island City Code related to public health and welfare.

Hybrid animal. ~~Means a~~ Any animal which is the product of the breeding of a domestic dog with a nondomestic canine species.

Humane killing. ~~Means~~ The destruction of an animal by a method which causes the animal a minimum of pain and suffering.

Kennel. Any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats.

Livestock. Any hooved animal commonly associated with domestic agricultural purposes, including but not limited to: horses, mules, donkeys, cows, sheep, goats, llamas, hogs, bovine, equine, swine, sheep, goats, domesticated cervine animals, ratite birds, or poultry.

Medical treatment. ~~Means~~ Treatment administered by a physician or other licensed health care professional.

Mutilation. ~~Means~~ intentionally causing permanent injury, disfigurement, degradation of function, incapacitation, or imperfection to an animal. Mutilation does not include conduct performed by a veterinarian licensed to practice veterinary medicine and surgery in this state or conduct that conforms to accepted veterinary practices.

Owner. Any person (s), or legal entity having permanent control of an animal or housing, feeding, or controlling an animal for more than three (3) days with the following exceptions: ~~partnership, or corporation owning, keeping, harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more or has exercised control or custody of the animal.~~

1. A boarding kennel; or
2. A veterinarian, veterinary hospital, or veterinary clinic;

Performing Animal Exhibition. Any spectacle, display, act, circus, fair, or event ~~other than circuses~~ in which performing animals perform are used.

Pet. Any animal kept for pleasure or companionship rather than solely for utility.

Pet Shop. Any person, partnership, or corporation, whether operated separately or in

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connection with another business except for a licensed kennel, that buys, sells, or boards any species of animal.

Potentially Dangerous Animal. Means (a) ~~a~~Any animal that when unprovoked:

- (i) inflicts an injury on a human being that does not require medical treatment; ~~or~~
- (ii) injures a domestic animal; ~~or~~
- (iii) chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or

(b) ~~a~~Any specific animal with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

~~Repeated beating. Means intentional successive strikes to an animal by a person resulting in serious bodily injury or death to the animal.~~

~~Restraint. Any animal s~~Securing ~~an animal~~ by a leash or lead; ~~which results in it being~~ or under the control of the owner or custodian responsible person and obedient to that person's commands; ~~or~~ being confined within the real property limits of its owner or custodian.

~~Residence. The structure used as a domicile by a person or a family.~~

~~Riding School or Stable. Any place which has available for hire, boarding and/or riding instruction, any horse, pony, donkey, mule, or burro.~~

~~Running at Large. Running at large shall mean a~~Any dog or other animal off outside the premises of the its owner or custodian and not controlled under the immediate control of a person physically capable of restraining the animal by holding a leash, cord, chain, ~~wire~~, rope, cage or other suitable means of physical restraint ~~or if the animal is out of doors on the premises of the owner, the animal shall be in an adequately fenced in area or securely fastened to a leash or chain to prevent the animal from leaving the owner's premises.~~

~~Scratch. Any seraping with the claws by an animal which causes an abrasion, puncture
——— or wound of the skin.~~

~~Serious injury or illness. Includes any injury or illness to any animal which creates a substantial risk of death or which causes broken bones, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ~~

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Shelter. Any structure with a roof and at least three (3) walls designed and/or intended and capable of protecting and/or housing one or more animals while providing protection from the elements and affording any animal housed or protected in it, the space to sit, stand, lie down, and turn around.

Torture. ~~Means intentionally~~ Intentionally subjecting an animal to extreme pain, suffering, or agony with the following exceptions: ~~Torture does not include conduct performed by a veterinarian licensed to practice veterinary medicine and surgery in this state or conduct that conforms to accepted veterinary practices.~~

1. The slaughter of animals as food for human or animal consumption;
2. The slaughter or processing of animals for human use;
3. The use of animals for scientific research conducted at commercial or academic facilities;
4. The use of animals as commonly acceptable bait for lawful fishing activities;
5. The extermination of vermin;
6. The euthanization or treatment of an animal by a Veterinarian or at a Veterinary Hospital or Clinic;
7. The euthanization or treatment of an animal at an animal control facility;
8. The killing or injuring of animals by members of law enforcement or Animal Control Officers in the course of their duties;
9. The killing or injuring of animals by persons protecting themselves or others from potential death or serious injury; or
10. The training or disciplining of animals using commonly accepted methods.

~~Veterinary Hospital or Veterinary Clinic. Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseased and injured animals.~~

Vermin. Animals that infest places where humans live, work, or control and which are commonly considered objectionable, excluding animals used solely as feeder animals. Examples include but are not limited to rodents, insects and bee colonies.

~~Wild Animal. Any live animal normally found living in a state of nature and not normally subjected to domestication, including but not limited to: monkeys, raccoons, skunks, snakes, and lions, but excluding birds.~~ Any animal that is native to a foreign country, of foreign origin or character, not native to the United States, not native to the State of Nebraska, and/or is any wild, poisonous, or potentially dangerous animal not normally considered domesticated, including but not limited to monkeys, raccoons, skunks, snakes and lions but excluding birds and those animals listed on the Approved Animal List.

§5-2. Animal Advisory Board; Establishment

There is hereby established the Animal Advisory Board of the City of Grand Island, whose duty it shall be to advise the mayor and city council on all matters relating to this chapter. The board shall be composed of ~~seven~~ nine (9) members: ~~four~~ five (5) members appointed by the mayor subject to confirmation by the city council; one (1) of whom shall be a licensed veterinarian, three (3) shall be registered voters residing within the City of Grand Island and one (1) member of the City Council. The other four (4) non-appointed members shall consist of ~~and the~~ Chief of police or his/her designee, the City Attorney or his/her designee, the director of the Animal Control Authority or his/her designee, and the director of the designated ~~department of health~~ department or his/her designee. Appointed members shall serve without compensation. The Animal Advisory Board shall meet during January of each year and/or such other occasions as may be established by said board. ~~Attendance by any four or more members shall constitute a quorum.~~

§5-3. Composition and Membership; Term of Office; Quorum; and Procedure

Said advisory board shall be composed of the following voting members: one veterinarian and three (3) representatives from the community at large; ~~The~~ a member of the City Council, the ~~c~~Chief of pPolice or his/her designee, the director of the Animal Control Authority or his/her designee, and the director of the ~~department~~ of health department or his/her designee. The City Attorney or his/her designee shall serve as an ex officio members without voting privileges. The original appointees to the Animal Advisory Board shall serve terms as follows: One for one year, one for two years, and one for three years. Thereafter, all appointments shall be for three year terms, provided, any appointment to fill a vacancy shall only be for the unexpired portion of the term of the member being replaced. The mayor may remove any appointed member without cause.

§5-4. Enforcement; Jurisdiction; Agencies; Duties

(A) This chapter shall be enforced only within the corporate limits of the City of Grand Island.

(B) The Code provisions of this chapter shall be enforced by the agency with which the City contracts to enforce said provisions and the Police Department. All employees of said Animal Control Authority shall be designated animal control officers for the purposes of this chapter.

(C) The Health Department shall assist in enforcement of code provisions relating to public health, safety and welfare.

(D) This Chapter shall not apply to:

(1) Care or treatment of an animal by a veterinarian licensed under the Nebraska Veterinary Practice Act until December 1, 2008, and the Veterinary Medicine and Surgery Practice Act on and after December 1, 2008;

(2) Commonly accepted care or treatment of a police animal by a law enforcement officer in the normal course of his or her duties;

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- (3) Research activity carried on by any research facility currently meeting the standards of the federal Animal Welfare Act, 7 U.S.C. 2131 et seq., as such act existed on January 1, 2003;
- (4) Commonly accepted practices of hunting, fishing, or trapping;
- (5) Commonly accepted practices occurring in conjunction with rodeos, animal racing, or pulling contests;
- (6) Humane killing of an animal by the owner or by his or her agent or a veterinarian upon the owner's request;
- (7) Commonly accepted practices of animal husbandry with respect to farm animals and commercial livestock operations, including their transport from one location to another and nonnegligent actions taken by personnel or agents of the Nebraska Department of Agriculture or the United States Department of Agriculture in the performance of duties prescribed by law;
- (8) Use of reasonable force against an animal, other than a police animal, which is working, including killing, capture, or restraint, if the animal is outside the owned or rented property of its owner or custodian and is injuring or posing an immediate threat to any person or other animal;
- (9) Killing of house or garden pests;
- (10) Commonly followed practices occurring in conjunction with the slaughter of animals for food or byproducts; and
- (11) Commonly accepted animal training practices.

§5-5. Interference with Animal Control Officer

It shall be unlawful for any person to interfere with an animal control officer in the performance of his or her duties.

Article II. Commercial Animal Establishments

§5-6. Commercial Animal Establishments

All provisions of this chapter relating to the care and control of animals shall apply to commercial animal establishments as to all animals not kept for sale or resale; and, as to all animals kept for sale or resale, all provisions shall apply except for the enclosure distance requirements set forth in §5-16 and §5-17; the limitations of the number of animals set forth in §5-18; the minimum area requirements set forth in §5-18; the prohibition of roosters as set forth in §5-41.1; and the registration of dogs and cats set forth in §5-12.

§5-7. Permits Required

No person, partnership, or corporation shall operate a commercial animal establishment within the City of Grand Island without first obtaining a commercial permit. Operation of a commercial animal establishment without a commercial animal establishment permit shall

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constitute a public nuisance, subject to abatement pursuant to §20-15 of the Grand Island City Code and fine pursuant to §1-7 of this code.

§5-7.1 Selling and/or Giving Away Animals on City or Private Property

No person, partnership, corporation, or any other legal entity shall sell and/or give away animals on City property. Before the sale and/or giving of animals may occur on private property, the seller animal owner must first obtain the written permission of the property owner. Refusal to leave upon request shall be punishable by a fine as listed in §1-7 of this Code.

§5-8. Commercial Permits; Fee; Renewal

(A) A commercial permit fee as adopted by the Health Department and identified in the City of Grand Island Fee Schedule shall be paid to the Health Department for each commercial animal establishment within the City.

(B) Each permit shall be effective for one year, beginning on August 1 of each year and ending on July 31 of the following year.

(C) Renewal applications shall be made no sooner than thirty days prior to, nor later than thirty days after, the first day of August.

§5-9. Commercial Permits; Transfer

Permits may be transferred upon a change of ownership of a commercial animal establishment upon payment of a transfer fee as adopted by the Health Department and identified in the City of Grand Island Fee Schedule.

§5-10. Commercial Establishments; Inspections

It shall be a condition of the issuance of a permit for operating a commercial animal establishment that the Animal Control Authority on behalf of the City, or the City's designee or the Health Department shall be permitted to inspect the premises and all animals thereon semi-annually. Refusal to allow an inspection by any authorized agent of the City or Health Department shall be a grounds for revocation of said permit. All commercial animal establishments shall comply with the Minimum Standards of Sanitation, Care, and Adequate Housing to be promulgated and adopted by the Animal Advisory Board and approved by the Mayor and City Council. Copies of the Minimum Standards of Sanitation, Care, and Adequate Housing shall be on file with the City Clerk and the Animal Control Authority, and shall be available for public inspection.

§5-11. Commercial Permits; Revocation

The city council may, after notice and hearing as provided by law, revoke or suspend any commercial permit for one or more of the following causes:

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- (A) Refusal by the commercial permit holder to allow the City or an animal control officer to inspect the premises or examine the animals thereon.
- (B) The conviction of the commercial permit holder or any of his or her employees for the offense of cruelty to or neglect of animals, whether or not said conviction is based upon the treatment of any animal on the premises of the commercial animal establishment.
- (C) Three or more convictions of the commercial permit holder and/or any of his or her employees for violations of any provision of this chapter within any twelve month period where said violations are based upon the care and/or control of the animals on the premises of said establishment.

Article III. Animal Licenses

§5-12. Registration Fee; Amounts; Delinquent

(A) The owner of any dog or cat over the age of three months in the City of Grand Island shall pay an annual pet license fee for said dog or cat. Such fee shall be adopted by the governing body and identified in the City of Grand Island Fee Schedule.

The annual pet license as provided in this section shall be for the period of January 1 through December 31 of the licensing year. The pet license provided for by this section shall be secured by each new owner or new resident within thirty days of establishing residency in the City or after acquiring said animal, notwithstanding the fact that the dog or cat may have been registered within the annual period by a previous owner or that the dog or cat had been registered with another authority other than the City of Grand Island.

(B) The fee required in (A) above shall become due on January 1 of the licensing year and shall become delinquent on February 1 of each year. The owner of any dog or cat in the City of Grand Island registering the same after said fee has become delinquent shall pay a surcharge in accordance with the fees adopted by the governing body identified in the City of Grand Island Fee Schedule.

(C) No dog or cat shall be registered and licensed unless and until the owner shall display a certificate of a licensed veterinarian showing that such dog or cat has been vaccinated for rabies.

(D) The owner of any dog or cat that has been declared “potentially dangerous” or “dangerous” shall pay, in addition to the pet license above, an annual kennel inspection fee. Such fee shall become due at the time of the declaration, and then shall be paid annually thereafter with the annual fee becoming due on January 1 of the year following the declaration, and shall become delinquent on February 1 of said year. The kennel inspection fee shall be adopted by the governing body and identified in the City of Grand Island Fee Schedule.

§5-13. Pet Tag; Issuance

(A) Upon the payment of the pet license fee required by §5-12, the owner shall be issued a metal tag for each dog or cat registered, which tag shall be marked and numbered with the year

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for which the tag is purchased and fee paid, and the number corresponding with the number of the dog or cat on the fee list. The pet tag must be attached to a collar or a harness and must be worn by each dog or cat at all times while it is outside its owner's residence.

(B) Each dog or cat registered must be listed and numbered by the treasurer and listed at the offices of the Animal Control Authority.

(C) If a pet license tag is lost, a replacement tag must be issued upon payment of a fee as adopted and identified in the City of Grand Island Fee Schedule.

Article IV. Animal Care

§5-14. Shelter Required

No owner shall fail to provide ~~his or her~~ pets with shelter of sufficient size to allow each pet to stand, turn around, and lie down, and be of sufficient construction to shield the pets from the wind, sun, ~~and from~~ precipitation and extreme weather conditions.

§5-15. Enclosure Required

~~No~~ Every owner shall ~~fail to~~ confine his or her animals within an enclosure of sufficient size and design to prevent the animal from escaping or to restrain said animal by a securely fastened rope, chain, ~~or~~ cord, or trolley/pulley system, all of which must be of a size and weight appropriate to the size, weight and temperament of the animal. Confinement shall be done in such a manner as to prevent such animal from going onto any public property or onto the property of another. Enclosures, other than appropriate full yard fences, shall be at least ten (10) feet from any property line.

§5-16. Enclosures; Requirements

(A) All enclosures and restraints required by §5-15 which are used to confine horses, mules, donkeys, cows, sheep, goats or llamas shall be no less than 150 feet from any residence other than the residence of the owner of said enclosure unless a waiver or variance is obtained as provided in subsection (C) below.

(B) All enclosures and restraints required by §5-15 which are used to confine rabbits, birds, and/or chickens shall be at least fifteen (15) feet from any ~~privately-owned~~ property abutting the owner's property.

(C) The owner of any animal affected by subsection (A) may keep or maintain an enclosure within the prohibited distance by either obtaining a waiver from all property owners within the prohibited distance stating that said property owners do not object to the keeping of animals within the prohibited distance, and filing the same with the City Clerk, or obtaining a variance from the city council; provided, that no variance shall be granted by the city council for a distance less than 75 feet. The council shall consider the following factors in determining whether or not to issue a variance:

(1) That the variance, if allowed, is in harmony with the general purpose and interest of this animal ordinance;

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(2) That there are practical difficulties or practical hardships in the way of carrying out the strict letter of this animal ordinance;

(3) For the purpose of supplementing the above requirements, the council in making the determination whether there are practical difficulties or particular hardships, shall also take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:

(i) That the majority of the applicant's neighbors have presented no objection to the proposed variance;

(ii) That the variance, if granted, would not be a threat to the public health, safety, and welfare;

(iii) That the variance, if granted, would not materially reduce the marketability of surrounding real property.

(4) Upon the filing of a request for variance under this subsection, the city clerk shall cause notice of the time and place of the hearing for variance to be mailed to all residences within one hundred fifty (150) feet of the enclosure for which the variance is sought.

§5-17. Enclosures; Registration Required

(A) The location of all enclosures with the distance requirements as set forth by §5-16 shall be registered with the Animal Control Authority within ten (10) days of placing any animal upon an unregistered location. Said registration shall be non-reoccurring for each owner, but shall be nontransferable.

(B) The location of all enclosures in existence prior to the effective date of this ordinance shall be registered with the Animal Control Authority within ninety (90) days of the effective date of this ordinance.

§5-18. Number of Animals; Limits

(A) No residential property shall have more than one of the following animals over weaning age per half acre of outdoor enclosure area where said animals are of the following livestock species:

- (1) horses;
- (2) mules;
- (3) donkeys;
- (4) cows;
- (5) sheep;
- (6) goats; and
- (7) llamas;

(i.e. two acres of outside enclosure area may be occupied by two horses and two cows, not four horses and four cows).

(B) No person, except for commercial retail establishments that offer live fowl (~~including~~ excluding including chickens) for retail sale and governmental and/or non-profit educational facilities, shall keep or maintain on his or her property any fowl (~~including~~ excluding including

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chicken hens) in a number that exceeds four (4) per one acre with a minimum of land being one (1) acre (i.e., two acres may be occupied by eight (8) fowl).

(C) All properties which do not comply with subsection (A) or (B) shall either be brought into compliance by October 3, 2006 or shall obtain a conditional use permit as provided by §36-8288 of this Code. The issuance of the conditional use permit shall be subject to the following conditions:

(1) A description of the species and numbers of animals to be kept on the premises during the term of the conditional use permit shall accompany this application.

(2) Written waivers approving the proposed conditional use permit shall be obtained from all persons residing within one hundred fifty (150.0) feet of the subject property and shall accompany the application.

(3) If the subject property shall be brought into compliance with Section (A) or (B) above for one hundred eighty (180) or more consecutive days, the conditional use permit shall terminate and shall not be renewed or reissued.

(D) No residential property shall have more than ~~thirty (30)~~ fifteen (15) rabbits of weaning age at any one time.

(E) No residential property shall have more than ~~64~~ thirty (30) birds over six months of age at any one time.

(F) For the purposes of this section, the number of animals permitted to be kept under subsection (A) shall be reduced by one if rabbits are also kept on said property, and also by one if birds or fowl are kept on said property.

(G) No residential property shall have more than four dogs and/or cats over three months of age.

(H) No residential property shall have more than four different species of animals sheltered and/or enclosed outside the residence.

~~(I) No residential property shall have more than eight (8) chicken hens at any time. Chicken hens shall be confined at all times. Enclosures must be a minimum of fifteen (15) feet from the property line.~~

§5-19. Reserved

§5-20. Shelters and Enclosures; Sanitation

No owner shall fail to keep the shelters and enclosures on his or her property in a sanitary condition. As a minimum, owners shall not fail to:

(A) Remove or dispose of in a sanitary manner, the bedding, offal manure, and waste materials accumulating from livestock at least once every seven (7) days.

(B) Remove or dispose of in a sanitary manner, the bedding, offal manure, and waste

materials accumulating from all other animals ~~at least once daily.~~

(C) Clean and disinfect said shelters and enclosures so as to prevent the breeding of flies and insects and the emission of deleterious and offensive odors therefrom.

§5-21. Food, Water, Health Care, Grooming; Owner's Duty

Owners shall provide at a minimum:

(A) ~~No owner shall fail to provide~~ Food of sufficient quantity and nutritive value to meet the daily requirements for the condition and size of the animal and fresh, clean water for his or her animals, ~~or fail to seek veterinary care for any such animals that are sick or injured.~~ Food and water in containers ~~shall be~~ of sufficient weight and design as to preclude readily tipping over and spilling the contents.

(B) ~~No owner shall leave his or her pets without~~ Adequate shelter in subzero degree temperatures, excessive heat or stormy weather.

(C) Grooming of animals as required to keep the animal free from dangerous matting, skin disease and insect infestation which can affect the health of the animal.

(D) Keep the enclosure or tethered area where the animal is kept free from unsanitary conditions, vermin-harboring debris, junk, contaminated materials, chemicals dangerous to the health of the animal or any other dangerous items that may cause injury to the animal or in any other way endanger the health of the animal.

(E) Appropriate veterinary care for treatment of injuries, parasite and disease, sufficient to maintain good health.

§5-22. Cruelty to Animals Prohibited

(A) No person shall beat, cruelly mistreat, torment, tease, torture, cruelly neglect, or otherwise abuse any animal.

(B) No person shall cause, instigate, or permit any fight or other combat between animals, or between animals and humans.

(C) No person shall cause, place or confine an animal or allow an animal to be confined in a dwelling, motor vehicle or trailer under such conditions or for such periods of time as to endanger the health or well-being of the animal including, but not limited to, extremes of heat or cold, lack of food or water, or any other circumstance which may cause suffering, disability, injury or death.

§5-23. Abandonment of Animals Prohibited

No owner of an animal shall abandon such animal.

§5-24. Exposing Poison Prohibited

No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any animal; provided, that it shall not be unlawful

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for a person to expose common rat poison mixed only with vegetable substances on his or her own property.

§5-25. Accidents Involving Animals; Duties

No person who, as the operator of a motor vehicle, strikes an animal, shall fail to stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner, the police, or the animal control authority for the City.

Amended by Ordinance No. 9229, effective 08-26-2009

§5-26. Ear Cropping, Dewclaw Removal, and Taildocking; Prohibition

No person, other than a licensed veterinarian, shall crop the ears, remove the dewclaws, or dock the tail of an animal.

§5-27. Restricted Sale of Chicks and Ducklings

Chickens or ducklings younger than eight weeks of age may not be sold in quantities of less than twenty-five to a single purchaser.

§5-28. Animals as Prizes Prohibited

No person shall give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter, any contest, game, or other competition, or as an inducement to enter a place of amusement; or offer such animal as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

§5-29. Performing Animal Exhibitions

(A) No performing animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner which will cause, or is likely to cause, physical injury or suffering.

(B) All equipment used on a performing animal shall fit properly and be in good working condition.

Article V. Rabies Control

§5-30. Rabies Vaccination

(A) No owner of a dog, cat or ferret over the age of three (3) months shall fail to cause the same to be vaccinated against rabies by a duly licensed veterinarian.

(B) No owner of a dog, cat, or ferret vaccinated as required by subsection (A) shall fail to have such dog, cat, or ferret revaccinated within ten days of the expiration date set forth for the original or any subsequent vaccination of said dog, cat, or ferret.

§5-31. Vaccination Certificate

Every veterinarian who vaccinates a dog, cat, or ferret for rabies shall provide the owner thereof with a certificate showing the date of such vaccination. A copy of each such certificate or

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a compilation thereof providing notification that a vaccination certificate has been issued shall be provided by each veterinary hospital or veterinary clinic to the City of Grand Island, or its designee, by the 10th of each month following the date of issuance.

§5-32. Vaccination Certificate; Duty to Exhibit

The owner of a vaccinated dog, cat, or ferret shall exhibit the certificate of vaccination to any animal control officer upon demand.

Amended by Ordinance No. 9200, effective 12-17-2008

Article VI. Animal Control

§5-33. Stallions, Jacks, and Bulls

No owner of any stallion, jack, or bull shall indecently exhibit the same or permit any such animal to be bred to any mare, jenny, or cow, except where the same is not exposed to public view.

§5-34. Running at Large; Restraint Required

It shall be unlawful for any owner to suffer or permit any dog or other animal to run at large within the corporate limits of the City of Grand Island. "Running at Large" shall mean any dog or other animal off the premises of the owner and not under the immediate control of a person physically capable of restraining the animal by holding a leash, cord, chain, rope, cage or other suitable means of physical restraint or if the animal is out of doors on the premises of the owner, the animal shall be in an adequate fenced in area or securely fastened to a leash, ~~or chain,~~ or trolley system that is of a size and weight appropriate to the size, weight and temperament of the animal to prevent the animal from leaving the owner's premises. It shall be the duty of the ~~city animal control officer~~ Animal Control Authority or other appropriate city law enforcement officer to impound any ~~dog~~ animal found running at large within the City of Grand Island. Every ~~dog~~ animal found running at large in violation of this or any other section of the Grand Island City Code is declared to be a public nuisance and may be impounded at the discretion of the Animal Control Authority or other appropriate city law enforcement officer.

§5-34.1. ~~Animal Training and Shows~~ Reserved

~~Animals may be off a leash when they are being trained for hunting or an animal show at a facility that is owned, leased or operated by a nationally recognized organization or a local affiliate sanctioned by such organization for the training, showing and betterment of animals such as the American Kennel Club or the United Kennel Club. Animals may be off of a leash at an animal show that is sanctioned by a nationally recognized animal organization if such show obtains a permit from the Animal Control Authority. The application for said permit shall set forth the date and place of the show or event, and list the types of activities that will be taking place at the event. If the activities at such animal show do not violate any of the provisions of the Grand Island City Code other than the running at large ordinance, or involve inhumane treatment~~

~~of the animals at such event then a permit shall be issued by the Animal Control Authority and a copy of the permit shall be sent to the Grand Island City Clerk and to the Grand Island Police Department.~~

§5-34.2. Animals Used and Trained for Law Enforcement; Exemption

Any animal used by law enforcement agencies including but not limited to the City of Grand Island Police Department, the Hall County Sheriff's Department or the Nebraska State Patrol shall be exempted from the provisions of the Grand Island City Ordinances including the Animal Running at Large and Dangerous Dogs Ordinances while such animal is being trained or used for law enforcement purposes.

§5-35. Isolation of Female Animals in Heat

No owner of a female cat or dog in heat shall fail to take reasonable measures to isolate said female from male cats and dogs to prevent contact with such male animals except for planned breeding.

§5-36. Dangerous Animals or Potentially Dangerous Animals on Owner's Property

(A) While unattended on the owner's property, a dangerous or potentially dangerous animal shall be securely confined, in a humane manner, indoors or outdoors in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the animal from escaping. The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground at a depth of at least one foot. The pen or structure shall also protect the animal from the elements. The owner of a dangerous animal shall post warning signs on the property where the animal is kept that are clearly visible from all areas of public access and that inform persons that a dangerous animal is on the property. Each warning sign shall be no less ~~that~~ than ten (10) inches by twelve (12) inches and shall contain the words warning and dangerous animal in high-contrast lettering at least three (3) inches high on a black background.

(B) All pens or structures for confining dangerous animals or potentially dangerous animals constructed after November 1, 2008 shall be at least ten (10.0) feet from any privately-owned property abutting the animal owners' property.

§5-36.1 Dangerous and Potentially Dangerous Animals; Actions Required; Costs

(A) A dangerous or potentially dangerous animal that has been declared as such shall be spayed or neutered and implanted with a microchip identification number by a licensed veterinarian within thirty (30) days after such declaration. The cost of both procedures shall be the responsibility of the owner of the dangerous or potentially dangerous animal. Written proof of both procedures and the microchip identification number shall be provided to the Animal

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Control Authority after the procedures are completed not to exceed thirty (30) days after the declaration of dangerous or potentially dangerous has been made.

(B) Failure to have the animal spayed or neutered and implanted with a microchip identification number within thirty (30) days of the declaration will result in the impoundment of the animal pursuant to §5-44.

(C) Failure to provide proof the animal being spayed or neutered and implanted with a microchip identification number within thirty (30) days of the declaration will result in the impoundment of the animal pursuant to §5-44.

(D) Any person violating any provision of this section shall be fined pursuant to §1-7 of this code. If a violation is of a continuing nature, i.e., each day after the deadline that the animal is not spayed/neutered or microchipped, each day of the violation shall constitute a separate violation.

§5-37. Dangerous and Potentially Dangerous Animals Restraint; Impoundment; Confiscation

(A) No owner of a dangerous or potentially dangerous animal shall fail to keep such animal securely muzzled and restrained by a leash or chain whenever off the owner's property.

(B) Any dangerous animal or potentially dangerous animal in violation of §5-36 or §5-37 of the Grand Island City Code may be immediately impounded by animal control officers. The owner shall be responsible for the costs incurred by the Animal Control Authority for the care of the dangerous or potentially dangerous animal confiscated by the Animal Control Authority or for the destruction of any dangerous or potentially dangerous animal if the action by the Animal Control Authority is pursuant to law.

(C) In the event an animal conforming to the definition of potentially dangerous animal inflicts an injury on a human being that does not require medical treatment, injures a domestic animal, or threatens the safety of humans or domestic animals, the potentially dangerous animal 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.

(D) An animal conforming to the definition of dangerous animal 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.

(E) Disposition of any animal impounded under this chapter shall be governed by §5-44.

§5-38. Animal Noise

(A) No owner shall allow conditions to exist on said owner's property whereby the owner's animal or animals annoy or disturb any neighborhood or any person by loud, continuous, or frequent barking, howling, yelping, or crowing.

(B) Owners will be subject to fine pursuant to §1-7 of this code, or Nuisance Owner declaration pursuant to §5-46 at the discretion of the Animal Control Authority or other law

enforcement personnel.

§5-39. Pet Excreta; Removal by Owner

The owner of any animal which, while off the property of its owner, deposits excreta on public property, or private property, shall be responsible for its removal. It shall be a violation of this section for the owner to fail to immediately remove such excreta when notified of its existence and location, either by the City or by the owner of the property on which the excreta was deposited.

§5-40. Wild Animals Prohibited

(A) No person shall keep, or permit to be kept on their residential premises any wild animal as a pet, for display, or for exhibition purposes, except as those on an Approved Animal List to be promulgated and adopted by the Animal Advisory Board and approved by the Mayor and City Council. Copies of the Approved Animal List shall be on file with the City Clerk and the Animal Control Authority, and shall be available for public inspection.

(B) No person or commercial animal establishment shall offer any wild animal for sale unless included on the Approved Animal List.

(C) The owner of any wild animal listed on the Approved Animal List over the age of six (6) months shall pay an annual wild animal license fee as adopted and identified in the City of Grand Island Fee Schedule. The annual wild animal license, as provided in this section, shall be for the period of January 1 through December 31 of the licensing year. The wild animal license provided for by this section shall be secured by each owner or new resident within thirty (30) days of establishing residency in the City or after acquiring said animal, notwithstanding the fact that the wild animal may have been registered within the annual period by a previous owner or that the wild animal may have been registered in another authority other than the City of Grand Island. The wild animal license fee shall become due on January 1 of the licensing year and shall become delinquent on March 1 of each year.

(D) Failure to obtain a wild animal license will result in a fine as listed §1-7 of the City Code.

(~~E~~) In the event a person wishes to keep or permit to be kept on his or her residential premises, any wild animal not listed on the Approved Animal List, application in writing may be made to the Animal Advisory Board for adding said species to the Approved Animal List. The primary factor to be considered by the Animal Advisory Board in adding a species to the Approved Animal List shall be whether allowing animals of said species to be kept within the corporate limits of the City of Grand Island presents a risk to public health, safety and welfare or the health, safety and welfare of other species already allowed to be kept as pets.

§5-41. Swine Prohibited

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No person shall keep or maintain swine, including the species known as miniature potbellied pigs, on his or her residential premises within the City.

§5-41.1. Roosters Prohibited

No person shall keep or maintain roosters on his or her property within the city, except for commercial retail establishments who offer live fowl or chickens for retail sale, and governmental and/or non-profit educational facilities.

§5-42. Impoundment of Animals at Large

All animals not under restraint may be taken into custody by any animal control officer and impounded in the animal shelter and there confined in a humane manner.

§5-43. Rabies Control; Reporting and Impoundment

(1) Any animal which is owned by a person and has bitten any person or caused an abrasion of the skin of any person shall be seized by the animal control authority for a period of not less than ten days if:

(a) The animal is suspected of having rabies, regardless of the species and whether or not the animal has been vaccinated;

(b) The animal is not vaccinated and is of a species determined by the State of Nebraska to be a rabid species; or

(c) The animal is of a species which has been determined by the State of Nebraska to be a rabid species not amenable to rabies protection by immunization, whether or not such animal has been vaccinated. If, after observation and examination by a veterinarian, at the end of the ten-day period the animal shows no clinical signs of rabies, the animal may be released to its owner unless otherwise prohibited by law.

(2)(a) Except as provided in subdivision (b) of this subsection, whenever any person has been bitten or has an abrasion of the skin caused by an animal owned by another person, which animal has been vaccinated in accordance with State law or regulation or if such injury to a person is caused by an owned animal determined by the State of Nebraska to be a rabid species amenable to rabies protection by immunization which has been vaccinated, such animal shall be confined by the owner or other responsible person as required by the animal control authority for a period of at least ten days and shall be observed and examined by a veterinarian at the end of such ten-day period. If no clinical signs of rabies are found by the veterinarian, such animal may be released from confinement unless ownership of the animal is otherwise prohibited by law.

(b) A vaccinated animal owned by a law enforcement or governmental military agency which bites or causes an abrasion of the skin of any person during training or the performance of the animal's duties may be confined as provided in subdivision (a) of this subsection. Such agency

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shall maintain ownership of and shall control and supervise the actions of such animal for a period of fifteen days following such injury. If during such period the death of the animal occurs for any reason, a veterinarian shall within twenty-four hours of the death examine the tissues of the animal for clinical signs of rabies.

(3) Any animal of a rabid species which has bitten a person or caused an abrasion of the skin of a person and which is unowned or the ownership of which cannot be determined within seventy-two hours of the time of the bite or abrasion shall be immediately subject to any tests which the animal control authority believes are necessary to determine whether the animal is afflicted with rabies. The seventy-two-hour period shall include holidays and weekends and shall not be extended for any reason. The tests required by this subsection may include tests which require the animal to be destroyed.

(4) All incidents of biting or scratching shall be reported in writing to the Animal Control Authority by the medical professional treating the injury, the injured party, or in the case of a minor child, the parent or guardian.

(5) In the case of domestic or hybrid animals known to have been bitten by a rabid animal, the following rules shall apply:

(a) If the bitten or exposed domestic or hybrid animal has not been vaccinated in accordance with State statute, such bitten or exposed domestic or hybrid animal shall be immediately destroyed unless the owner is willing to place such domestic or hybrid animal in strict isolation in a kennel under veterinary supervision for a period of not less than six months; and

(b) If the bitten or exposed domestic or hybrid animal has been vaccinated in accordance with State statutes, such domestic or hybrid animal shall be subject to the following procedure: (1) Such domestic or hybrid animal shall be immediately revaccinated and confined for a period of not less than thirty days following vaccination; (2) if such domestic or hybrid animal is not immediately revaccinated, such domestic or hybrid animal shall be confined in strict isolation in a kennel for a period of not less than six months under the supervision of a veterinarian; or (3) such domestic or hybrid animal shall be destroyed if the owner does not comply with either subdivision (1) or (2) of this subdivision.

§5-44. Impounded Animals; Disposition

(A) All animals that are not domestic animals, including but not limited to feral cats, may be humanely euthanized as soon as they are captured or otherwise taken into custody.

(B) All animals impounded pursuant to §5-43 and not euthanized shall be retained until completion of the observation period and the determination by a licensed veterinarian that said animal is not infected with rabies, and then may be redeemed by its owner upon payment of the

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fees for impoundment and cost of care as adopted by the Animal Control Authority and identified in the City of Grand Island Fee Schedule. Any domestic animal not claimed within three (3) clear working days after being impounded or such extended period as is granted in writing by the Animal Control Authority to allow the animal's owner to construct a pen or structure in conformance with §5-36 or comply with §5-36.1 shall become the property of the Animal Control Authority and may be placed for adoption or humanely euthanized by said agency at its discretion.

(C) Any animals determined to have rabies by a licensed veterinarian shall be destroyed as soon as possible after that determination is made.

(D) All domestic animals impounded pursuant to other sections of this Chapter shall be retained until redeemed by their owner upon payment of fees for impoundment and cost of care in an amount adopted by the Animal Control Authority and identified in the Grand Island Fee Schedule. Any domestic animal not claimed within three (3) clear working days after being impounded or such extended period as is granted in writing by the Animal Control Authority to allow the animal's owner to construct a pen or structure in conformance with §5-36 or comply with §5-36.1 shall become the property of the Animal Control Authority and may be placed for adoption or humanely euthanized by said agency at its discretion. The foregoing time period shall not include the day of impoundment.

(E) No dog or cat impounded under this Chapter shall be released until said animal is vaccinated and licensed as required by the provisions of this ordinance.

Article VII. Penalties

§5-45. General Penalty

Any person violating any provision of this chapter shall be fined pursuant to §1-7 of this code. If a violation is of a continuing nature, each day of the violation shall constitute a separate violation.

§5-46. Nuisance Owner

~~Any owner or any person in possession of any animal regulated by this chapter who fails to care for and control said animal shall be deemed to be maintaining a nuisance subject to abatement pursuant to §20-15 of the Grand Island City Code upon written request by the Director of the Department of Health, the Grand Island Police Department, or an animal control officer, the abatement of which shall be the forfeiture of the animal or animals in violation. The procedure for abatement of nuisances set forth in §20-15 of the Grand Island City Code shall be followed in all cases not involving an imminent threat to public health, safety or welfare or the health, safety or welfare of the animal or animals in violation.~~

~~—————In the event continuation of a public nuisance might cause irreparable harm or poses a serious threat to public health, safety or welfare or the health, safety or welfare of residents of the property in violation, the written notice to abate pursuant to §20-15 of the Grand Island City Code shall not be required as a condition precedent to commencing a legal action to obtain~~

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~~abatement of the nuisance and the City of Grand Island, with the consent of the Mayor, may immediately file an action requesting such temporary or permanent order as is appropriate to expeditiously and permanently abate said nuisance and protect the public health, safety or welfare or the health safety or welfare of the residents of the property in violation.~~

(A) Any owner or custodian in possession of any animal regulated by this Chapter may be declared a Nuisance Owner upon written request by the Animal Control Authority, Animal Advisory Board or Law Enforcement of the City of Grand Island for any one of the following:

1. The owner is convicted of one or more violations of this Chapter on four (4) separate occasions in a twenty-four (24) month period; or
2. The owner has failed to comply with the requirements of City Code after the animal has been deemed Potentially Dangerous or Dangerous;

(B) Upon written request by the Animal Control Authority, Animal Advisory Board or Law Enforcement officials to declare an owner a Nuisance Owner, the owner must surrender the animal to the Animal Control Authority within five (5) days of receiving notice of Nuisance Ownership. Service of Nuisance Ownership shall be by personal service or certified U.S. Mail to the last known address of the owner. The animal will be impounded by the Animal Control Authority until a final determination of Nuisance Ownership has been made.

(C) In the event continuation of the nuisance ownership might cause irreparable harm or poses a serious threat to public health, safety or welfare, or the health, safety or welfare of residents of the property where the animal resides, the animal shall be impounded immediately by the Animal Control Authority and held until final determination of Nuisance Ownership is made.

(D) The owner may accept the Notice of Nuisance Ownership as a final determination, or the owner may appeal the Notice of Nuisance Ownership pursuant to Article VIII of this Chapter.

(E) Upon either acceptance of a Nuisance Ownership determination or after appeal and a determination by the Animal Advisory Board of Nuisance Ownership, the disposition of the animal will be at the discretion of the Animal Control Authority and what it determines appropriate.

(F) The owner will be responsible for payment of all impoundment fees as laid out in the City Fee Schedule.

(G) Nuisance owners shall be prohibited from owning or residing with any animal within the corporate limits of the City of Grand Island for a period of two (2) years from the date of determination. Owners found to be in violation of this subsection shall be subject to the Animal Control Authority immediately impounding and disposing of the animal. Ultimate disposition of the animal will be at the discretion of the Animal Control Authority.

(H) Any person violating any provision of this section shall be fined pursuant to §1-7 of this code. If a violation is of a continuing nature, i.e., each day after the deadline that the

animal is in the possession of a prohibited owner, each day of the violation shall constitute a separate violation.

Article VIII. Appeal Procedure

§5-47. Dangerous and Potentially Dangerous; Nuisance Owner; Declaration; Appeal; Disposition

(A) If it shall appear to an animal control officer that any animal conforms to the definition of a dangerous animal or potentially dangerous animal, or an owner is a Nuisance Owner pursuant to §5-46 above, written notice declaring the animal a dangerous or potentially dangerous animal or an owner a Nuisance Owner shall be delivered to the animal's owner either by personal service or by Certified U.S. mail addressed to the last known address of said owner.

(B) In the case of a dangerous animal, within five (5) days of personal service or mailing of a notice of declaration to the animal's owner said owner shall deliver said animal to the Animal Control Authority for impoundment and disposition pursuant to §5-37. In the case of a potentially dangerous animal, within five (5) days of personal service or mailing of a notice of declaration to the animal's owner said owner shall either provide reasonable proof of compliance with §5-36 and §5-37 of the Grand Island City Code or shall deliver said animal to the Animal Control Authority for impoundment and disposition . Refusal or failure by the owner of any animal declared a dangerous animal or potentially dangerous animal to comply with this subsection shall be a violation of the Grand Island City Code and shall be subject to abatement as a public nuisance pursuant to §5-46.

(C) The owner of any animal declared a potentially dangerous animal or dangerous animal by an animal control officer, or declaration of a Nuisance Owner pursuant to §5-46 above may appeal the decision to the Animal Advisory Board by submitting a letter of appeal to the Animal Control Authority within 72 hours of either receiving personal service or mailing of the written notice of declaration. The Animal Advisory Board shall hold a hearing within ten (10) days of delivery of the letter of appeal to the Authority. The hearing shall be conducted informally. The animal's owner and Animal Control Authority shall present oral or written statements or reasons supporting or opposing the declaration to the Animal Advisory Board. Statements by each participant shall be limited to a total time of ~~one hour~~ thirty (30) minutes or less. Upon conclusion of the hearing the Animal Advisory Board may reverse, modify or affirm the declaration of the ~~animal control officer~~ Animal Control Authority. Notice of the determination of the Animal Advisory Board shall be given to the animal's owner and the Animal Control Authority, either personally or by United States Mail.

SECTION 2. Any ordinance or parts of ordinances in conflict herewith be, and hereby are, repealed.

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SECTION 3. This ordinance shall be in force and take effect from and after its passage and publication, within fifteen days in one issue of the Grand Island Independent as provided by law.

Enacted: March 25, 2014.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk