



City of Grand Island

Tuesday, October 12, 2004

Council Session

Item F1

**#8937 - Consideration of Amending Chapter 5 of the Grand Island
City Code Relative to Animals**

Staff Contact: Doug Walker

Council Agenda Memo

From: Douglas R. Walker, City Attorney

Meeting: October 12, 2004

Subject: Proposed Change to Dog Ordinance

Item #'s: F-1

Presenter(s): Douglas R. Walker, City Attorney

Background

At the study session on September 7, 2004, city staff proposed three changes to the City Code dealing with dogs running at large and the process for declaring dogs vicious. Since that meeting, an additional change has been made to the vicious dog and dangerous dog definitions in Section 5-1 of the City Code. There have been some unfortunate situations develop in the City of Grand Island this summer regarding some dog bite incidents and city staff believes that the proposed changes in the ordinance will improve and expedite the process of declaring dogs vicious to protect the public. City staff is also proposing some minor changes to the language in the dog running at large definition section and in Ordinance 5-34, which deals with dogs running at large.

Discussion

Grand Island City Code Section 5-37 as currently drafted does not specifically permit the Director of the Humane Society to declare an animal vicious if it has previously been declared dangerous or potentially dangerous and inflicts a subsequent bite on a human being or a domestic animal. The way Section 5-37 is currently worded, an animal can be declared vicious if it is not under control of the owner. A new subsection (d) to Section 5-37 specifically states that in the event an animal previously declared to be dangerous or potentially dangerous bites or inflicts a wound on a human being or domestic animal, then that animal may be declared vicious by the Director of the Humane Society who may then require the animal to be relinquished to the Humane Society for disposition as a vicious animal. City staff believes that by having this provision in Section 5-37, this will substantially strengthen the Humane Society's ability to declare animals as vicious and prevent them from being a threat to people or other animals.

Section 5-37 also does not specify that if an animal kills a human being or a domestic animal on its owner's property that the animal is to be declared vicious. A new sub-

section, 5-37(E) now requires that such an animal be declared vicious. A change has also been made to the definition of a dangerous animal and a vicious animal to reflect this change in the City Code.

In regard to the changes proposed for Sections 5-1 and 5-34, these changes are clearing up some ambiguity in the requirements for people to keep animals that are outside of their residence in a fenced in area or on a leash to prevent them from running at large. The old definition of running at large included the phrase “If an animal is unattended and out of doors on the premises, the owner”. The words “unattended and” have been removed so that it is clear that the if animal is out of doors on the owner’s property that it must either be in a fenced in area or on a leash. When revisions were made to these ordinances in 2003 this was the intent of the Humane Society and the Animal Advisory Board to recommend changes that would require the animals outside on their owner’s premises be properly restrained as well as when the animals are off the property of the owner. The proposed changes will clarify this issue.

Alternatives

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

1. Approve the ordinance as drafted.
2. The City Council may choose to reject the proposed ordinance.
3. Modify the proposed ordinance to meet the wishes of the Council
4. Table the issue

Recommendation

City Administration recommends that the proposed changes to the dog ordinances be approved and adopted.

ORDINANCE NO. 8937

An ordinance to amend Chapter 5 of the Grand Island City Code; to amend Section 5-1 pertaining to the definition of a dangerous animal, the definition of a vicious animal, the definition of running at large; to amend Section 5-34 pertaining to animals running at large; to amend Section 5-37 pertaining to restraint, impoundment, confiscation of dangerous and vicious animals; to repeal Sections 5-1, 5-34, and 5-37 as now existing, and 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. Section 5-1 of the Grand Island City Code is hereby amended to read as follows:

§5-1. Definitions

As used in this chapter, the following terms mean:

Animal. Any live, vertebrate creature other than human beings.

Animal Shelter. Any facility operated by the City or the contracting agency for the purpose of impounding or caring for animals held under the authority of this chapter.

Auctions. Any 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.

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

Bite. Any seizure with the teeth by an animal

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

Commercial Animal Establishment. Any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, performing animal exhibition, or kennel (this term shall not include a veterinary hospital or veterinary clinic).

Contracting Agency. The person, association, corporation, or partnership with which the City has contracted to enforce the provisions of this chapter.

Dangerous Animal. Any animal that (a) has ~~killed or~~ inflicted severe injury on a human being on public or private property; (b) has killed a domestic animal without provocation while the animal was off the owner's property; or (c) has been previously determined to be a potentially dangerous animal according to this chapter and such animal subsequently and aggressively bites, attacks, or endangers the safety of humans or domestic animals. Under (a) and (c) herein, the animal shall not be considered a dangerous animal if the conduct of the animal in question is directed at a person:

- (1) Who, at the time, was committing a willful trespass or any other tort upon the property of the owner of the animal;
- (2) Who, at the time, was tormenting, abusing, or assaulting the animal;
- (3) Who, in the past, has been observed or reported to have tormented, abused, or assaulted the animal; or
- (4) Who, at the time, was committing or attempting to commit a crime against the person, against public peace, or relating to the property.

ORDINANCE NO. 8937 (Cont.)

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.

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

Health Department. An agency with which the City contracts to enforce the provisions of Chapter 5 - Animals of the Grand Island City Code.

Humane Society. An agency with which the City contracts to enforce the provisions of Chapter 5 - Animals of the Grand Island City Code.

Humane Society Officer. Any police officer, Health Department employee, or employee of the contracting agency who is performing the duty of enforcing the provisions of this chapter.

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, and miniature pot belly pigs.

Owner. Any person, 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.

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

Pet. Any animal kept for pleasure rather than utility.

Pet Shop. Any person, partnership, or corporation, whether operated separately or in connection with another business except for a licensed kennel, that buys, sells, or boards any species of animal.

Potentially Dangerous Animal. (a) Any animal that (1) bites or inflicts a wound that is not severe on a human or injures a domestic animal either on public or private property, or (2) chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude or attack; or (b) any dog with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

Restraint. Any animal secured by a leash or lead, or under the control of a responsible person and obedient to that person's commands, or within the real property limits of its owner.

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 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, wire, rope, cage or other suitable means of physical restraint or if the animal is ~~unattended and~~ 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 scraping with the claws by an animal which causes an abrasion, puncture or wound of the skin.

Severe Injury. Any physical injury to a person that results in disfiguring lacerations requiring multiple sutures or cosmetic surgery, or one or more broken bones, or that creates a potential danger to the life or health of a victim.

Shelter. Any structure with a roof and walls designed and/or intended to house one or more animals.

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

Vicious Animal. Any animal that has killed a human being or another domestic animal on its owner's property. Also any animal that conforms to the definition of a dangerous animal and that could not be controlled or restrained by its owner at the time of any occurrence underlying the animal's declaration as a dangerous animal or which cannot be sufficiently controlled or restrained by the animal's owner to prevent any such occurrence in the future. An animal that has previously been declared dangerous or potentially dangerous that bites or inflicts a wound on a human or on a domestic animal will not be considered sufficiently controlled and may be declared a vicious animal by the Director of Humane Society.

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.

ORDINANCE NO. 8937 (Cont.)

Zoological Park. Any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of nondomesticated animals operated by a person, partnership, corporation, or government agency.

SECTION 2. Section 5-34 of the Grand Island City Code is hereby amended to read as follows:

§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, wire, rope, cage or other suitable means of physical restraint or if the animal is ~~unattended and~~ 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 to prevent the animal from leaving the owner's premises. It shall be the duty of the city animal control officer or other appropriate city law enforcement officer to impound any dog found running at large within the City of Grand Island. Every dog 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.

SECTION 3. Section 5-37 of the Grand Island City Code is hereby amended to read as follows:

§5-37. Dangerous Animals and Vicious 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 impounded by humane society officers pending the owner paying the costs of confinement, licensing and vaccination, if applicable, and demonstrating the ability of complying with said sections thereafter.

(C) In the event an animal previously declared dangerous or potentially dangerous has been cited for running at large on two separate occasions subsequent to service of written notice on the animal's owner pursuant to §5-47 of this code, such animal shall be declared a vicious animal and ownership of such animal shall be relinquished to the Humane Society in accordance with §5-47(C).

(D) In the event an animal conforming to the definition of dangerous or potentially dangerous bites or inflicts a wound on a human or domestic animal, subsequent to service of written notice on the animals' owner pursuant to §5-47 of this code, such animal may be declared a vicious animal and if the animal is declared to be vicious, ownership of such animal shall be relinquished to the Humane Society in accordance with §5-47(C).

(E) Any animal that has killed a human being or a domestic animal when on its owner's property shall be declared vicious and ownership shall be relinquished to the Humane Society.

~~(F)(D)~~ Disposition of any dangerous animal or potentially dangerous animal impounded for violation of §5-36 or §5-37 shall be governed by §5-44.

SECTION 4. Sections 5-1, 5-34, and 5-37 as now existing, and any ordinances or parts of ordinances in conflict herewith be, and hereby are, repealed.

ORDINANCE NO. 8937 (Cont.)

SECTION 5. That 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: October 12, 2004.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk