



# **City of Grand Island**

**Tuesday, November 18, 2008**

**Council Session**

## **Item F3**

**#9200 - Consideration of Amendments to Chapter 5 of the Grand Island City Code Relative to Animals**

**Staff Contact: Wes Nespor**

# **Council Agenda Memo**

**From:** Wesley D. Nespor, Legal Department

**Meeting:** November 18, 2008

**Subject:** Amendments to Chapter 5 of the City Code

**Item #'s:** F-3

**Presenter(s):** Dale Shotkoski, City Attorney or Wesley D. Nespor, Attorney

## **Background**

The City Council adopted a goal to comprehensively review and update the City Code. These proposed revisions are part of that process.

## **Discussion**

The changes to Chapter 5 update definitions to coincide with changes to Nebraska Revised Statutes under Legislative Bill 1055. The most significant changes relate to the standards for determining if an animal is potentially dangerous or dangerous and the impoundment and disposition of such animals is clarified. On October 30, 2008, the Animal Advisory Board met and approved the proposed changes and recommends the same to City Council.

## **Alternatives**

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

1. Move to approve
2. Take no action
3. Postpone the issue to future date

## **Recommendation**

City Administration recommends that the Council approve the amendments to Chapter 5 of the City Code.

## **Sample Motion**

Move to approve the ordinance amending Chapter 5 of the City Code.

## ORDINANCE NO. 9200

An ordinance to amend Grand Island City Code Chapter 5 Sections 5-1 through 5-47 regarding definitions, humane treatment, animal control, dangerous animals, and potentially dangerous animals to harmonize it with State Statutes; to repeal sections 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 through 5-47 of the Grand Island City Code are 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 to leave any animal in one's care, whether as owner or custodian, for any 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, vertebrate creature other than human beings.

*Animal Control Officer.* Means any 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 the ~~contracting agency~~ Animal Control Authority 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, circus, performing animal exhibition, or kennel (this term shall not include a veterinary hospital or veterinary clinic).

*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;

## ORDINANCE NO. 9200 (Cont.)

~~Dangerous Animal.~~ ~~Any animal that, according to the records of the Central Nebraska Humane Society: (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 by an Humane Society officer and the owner has received notice of such determination and such animal again aggressively bites, attacks, or endangers the safety of humans or domestic animals. A dog shall not be defined as a dangerous dog if the threat, any injury that is not a severe injury, or the damage was sustained by a person who, at the time, was committing a willful trespass or any other tort upon the property of the owner of the dog, who was tormenting, abusing, or assaulting the dog, who has, in the past, been observed or reported to have tormented, abused, or assaulted the dog, or who was committing or attempting to commit a crime.~~ Means an animal that (i) has killed a human being; (ii) has inflicted injury on a human being that requires medical treatment; (iii) has killed a domestic animal without provocation; 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;

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.

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

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

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

~~Humane Society.~~ ~~The Central Nebraska Humane Society 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.

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, 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.

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. Means (a) any animal that when unprovoked (i) inflicts an injury

## ORDINANCE NO. 9200 (Cont.)

on a human being that does not require medical treatment, (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) 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.

~~(a) Any animal that when unprovoked (1) inflicts a non—severe injury 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 of attack or (b) any specific 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.~~

*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 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 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.

*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

~~*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.

*Torture.* Means intentionally subjecting an animal to extreme pain, suffering, or agony. 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.

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

*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.

### **§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 members: four members appointed by the mayor subject to confirmation by the city council; and the chief of police or his/her designee, the director of the Animal Control Authority~~humane society~~ or his/her designee, and the director of the department of health or his/her designee. Appointed members shall serve without compensation. The Animal Advisory Board shall meet during the first week of January and the first week of July 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 Term**

\_\_\_\_\_ Said advisory board shall be composed of one veterinarian and three representatives from the community at large. The chief of police or his/her designee, the director of the Animal Control Authority~~humane society~~ or his/her designee, and the director of the department of health or his/her designee shall serve as ex officio members. 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

## ORDINANCE NO. 9200 (Cont.)

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 ~~contracting agency~~ Animal Control Authority shall be designated animal control ~~humane society~~ 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;

(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 ~~Humane Society~~ Officer**

It shall be unlawful for any person to interfere with an animal control ~~humane society~~ 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 constitute a public nuisance, subject to abatement pursuant to §20-15 of the Grand Island City Code.

### **§5-8. Commercial Permits; Fee; Renewal**

(A) A commercial permit fee as adopted by the Health Department and identified in the City of

## ORDINANCE NO. 9200 (Cont.)

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 City or the Health Department shall be permitted to inspect the premises and all animals thereon semi-annually. Refusal to allow an inspection by an authorized agent of the City or Health Department shall be a ground 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 ~~humane society~~, 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:

(A) Refusal by the commercial permit holder to allow the City or an animal control officer ~~the humane society~~ 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 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.



## ORDINANCE NO. 9200 (Cont.)

Amended by Ordinance No. 9142, effective 11-28-2007

### **§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 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.

(B) Each dog or cat registered must be listed and numbered by the treasurer.

(C) If a pet license tag is lost, a replacement tag must be issued upon payment of a fee as adopted by the humane society board 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 lie down, and of sufficient construction to shield the pets from the wind, sun, and from precipitation.

### **§5-15. Enclosure Required**

No 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 rope, chain, or stake in such a manner as to prevent such animal from going onto any public property or onto the property of another.

### **§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, 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~~humane society~~, 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;

(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 the head of 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~~humane society~~ within ten days of placing any animal upon an unregistered location. Said registration shall be non-reoccurring for each owner, but shall be nontransferable.

## ORDINANCE NO. 9200 (Cont.)

(B) The location of all enclosures in existence prior to the effective date of this ordinance shall be registered with the Animal Control Authority~~humane society~~ within 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 chickens) for retail sale and governmental and/or non-profit educational facilities, shall keep or maintain on his or her property any fowl (including 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 §36-82 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) rabbits at any one time.

(E) No residential property shall have more than 64 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.

Amended by Ordinance No. 9142, effective 11-28-2007

### **§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; Owner's Duty**

(A) No owner shall fail to provide food and water for his or her animals, or fail to seek veterinary care for any such animals that are sick or injured. Food and water container 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 shelter in subzero degree or stormy weather.

## ORDINANCE NO. 9200 (Cont.)

### **§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.

### **§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 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 agency for the City.

### **§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 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 humane society 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 humane society officer upon demand.

## **Article VI. Animal Control**

### **§5-33. Stallions, Jacks, and Bulls**

## ORDINANCE NO. 9200 (Cont.)

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, 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 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.

#### **§5-34.1. Animal Training and Shows**

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~~Grand Island Humane Society~~. 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~~Grand Island Humane Society~~ 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 ~~a~~ 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 than ten inches by twelve inches and shall contain the words warning and dangerous animal in high-contrast lettering at least three inches high on a black background.

(B) All pens or structures for confining dangerous animals or potentially dangerous animals constructed after ~~November 1, 2008~~May 1, 1997 shall be at least ~~ten five~~ (105.0) feet from any privately-owned property abutting the animal owners' property.

### **§5-37. 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 ~~humane society~~ officers. The owner shall be responsible for the costs incurred by the Animal Control Authority~~humane society~~ for the

## ORDINANCE NO. 9200 (Cont.)

care of the dangerous ~~or potentially dangerous~~ animal confiscated by the ~~Animal Control Authority~~humane society or for the destruction of any dangerous ~~or potentially dangerous~~ animal if the action by the ~~Animal Control Authority~~humane society is pursuant to law.

(C) In the event an animal conforming to the definition of ~~dangerous or 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 ~~bites or inflicts a wound on a human or domestic animal~~, the ~~potentially dangerous~~ animal shall be immediately confiscated by an ~~animal control~~humane society 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 ~~dangerous animal or potentially dangerous~~ animal impounded under this chapter for violation of §5-36 or §5-37 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.

### **§5-39. Pet Excreta; Removal by Owner**

The owner of any animal which 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~~humane society, 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 ~~by the humane society board~~ 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) In the event a person wishes to keep or permit to be kept on his 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**

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

## ORDINANCE NO. 9200 (Cont.)

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~~~~police officer or humane society~~ officer and impounded in the animal shelter and there confined in a humane manner.

### **§5-43. Rabies Control; Reporting and Impoundment**

(A) Any unvaccinated dog or cat suspected of biting or scratching any person or exposing an individual to the possibility of contracting rabies shall be taken into custody by an ~~animal control~~~~humane society~~ officer or police officer and impounded in the animal shelter for a period of not less than ten days, or such additional period as directed by a licensed veterinarian or medical professional treating the aforementioned injury.

(B) Any dog or cat currently vaccinated for rabies which is suspected of biting or scratching any person shall be confined by the owner of the animal for a period of not less than ten days; provided, that impoundment in the animal shelter shall be required if the victim, victim's legal guardian, or the victim's physician requests such impoundment; and provided further, that if said owner has on any prior occasion of a dog or cat bite or scratch, failed or refused to confine the animal as required by this section, said animal shall be impounded at the animal shelter or a veterinary clinic of the owner's choosing.

(C) Any ferret suspected of biting any person or exposing an individual to the possibility of contracting rabies shall be taken into custody by an ~~animal control~~~~humane society~~ officer or police officer for immediate euthanization for the determination of rabies. Any ferret suspected of scratching any person shall be taken into custody by an ~~animal control~~~~humane society~~ officer or police officer for immediate euthanization for determination of rabies if there is reasonable cause to believe said ferret has exposed such person to the possibility of contracting rabies.

(D) No owner of an animal suspected of biting or scratching any person, upon information and notice of the incident, shall fail or neglect to immediately place the animal in the custody of an ~~animal control~~~~the humane society~~ officer or police officer for impoundment at the animal shelter. Upon request and authorization by the owner of any animal impounded for observation under subsections (A), (B) or (C) above, said animal may be placed in the custody of a licensed veterinarian for the requisite observation period.

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

(F) The term "scratching" as used in this section shall include only those incidents which result from known or suspected aggressive action or attack by a dog, cat or ferret.

### **§5-44. Impounded Animals; Disposition**

~~(A) All domestic animals impounded pursuant to §5-42 shall be retained until redeemed by their owner upon payment of an impoundment fee as adopted by the humane society board and identified in the City of Grand Island Fee Schedule.~~

~~(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 fees for impoundment and cost of care as adopted by the ~~Animal Control Authority~~~~humane society board~~ 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 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

## ORDINANCE NO. 9200 (Cont.)

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 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.

~~(D) Any domestic animal not claimed by its owner within three clear working days after being impounded under §§5-42 or 5-43, shall become the property of the contracting agency 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) Any animals determined to have rabies by a licensed veterinarian shall be destroyed as soon as possible after that determination is made.~~

~~(F) All domestic animals impounded shall be retained until redeemed by their owner upon payment of fees for impoundment and cost of care in an amount adopted by the humane society board 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 contracting agency to allow the animal's owner to construct a pen or structure in conformance with §5-36 shall become the property of the contracting agency 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.~~

~~(EG) No dog or cat impounded under this Chapter§5-37, §5-42 or §5-43 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

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 Director of the Humane Society, or the Code Enforcement Officer to the City Attorney~~, 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 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.

### Article VIII. Appeal Procedure

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

(A) If it shall appear to an animal control officer~~the Director of the Humane Society~~ that any animal conforms to the definition of a dangerous animal or potentially dangerous animal, written notice declaring the animal a dangerous or potentially dangerous animal shall be delivered to the animal's owner either by personal service or by 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 or 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 AuthorityHumane Society for impoundment and disposition pursuant to §5-37(B).~~ Refusal or failure by the owner of any animal declared a dangerous

ORDINANCE NO. 9200 (Cont.)

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~~the Director of the Humane Society~~ may appeal the ~~Director's~~ decision to the Animal Advisory Board by submitting a letter of appeal to the Animal Control Authority~~Director~~ 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~~Director~~. The hearing shall be conducted informally. The animal's owner and Animal Control Authority~~Director of the Humane Society~~ 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 or less. Upon conclusion of the hearing the Animal Advisory Board may reverse, modify or affirm the declaration of the animal control officer~~Director~~. Notice of the determination of the Animal Advisory Board shall be given to the animal's owner and the Animal Control Authority~~Director of the Humane Society~~, either personally or by United States Mail.

SECTION 2. Chapter 5 as existing prior to this amendment, and any ordinances or parts of ordinances in conflict herewith, are repealed.

SECTION 3. The validity of any section, subsection, sentence, clause, or phrase of this ordinance shall not affect the validity or enforceability of any other section, subsection, sentence, clause, or phrase thereof.

SECTION 4. That this ordinance shall be in force and take effect from and after its passage and publication in pamphlet form within fifteen days as provided by law.

Enacted: November 18, 2008.

---

Margaret Hornady, Mayor

Attest:

---

RaNae Edwards, City Clerk

Approved as to Form	<input checked="" type="checkbox"/> _____
November 14, 2008	<input checked="" type="checkbox"/> City Attorney