



City of Grand Island

Tuesday, April 28, 2015

Council Session

Item F-2

#9537 – Consideration of Amending Chapter 5 of the Grand Island City Code Relative to Bee Keeping

Staff Contact: Stacy Nonhof, Assistant City Attorney

Council Agenda Memo

From: Stacy R. Nonhof, Assistant City Attorney

Meeting: April 28, 2015

Subject: Amending Chapter 5 of City Code to allow Bee Keeping

Item #'s: F-2

Presenter(s): Stacy R. Nonhof, Assistant City Attorney

Background

A question by a responsible citizen of the City Of Grand Island regarding whether or not they could have bee hives in their yard began a discussion on whether or not bee keeping should be allowed and if so, should it be regulated. The Animal Advisory Board has met multiple times and has declared that bee keeping should be allowed and that it should be regulated. What is being presented tonight are the changes approved by the Animal Advisory Board.

Discussion

The Animal Advisory Board has voted to allow bee keeping within the city limits of Grand Island. This proposed ordinance is the result of discussions and public meetings on the issue of bee keeping. By a unanimous vote, the Animal Advisory Board has approved this ordinance and the regulations that it imposes on bee keeping.

This ordinance removed bees from the definition of vermin and in that same Definitions section, the relevant terms such as bee, colony and hive have been defined. The Nuisance Owner provision of §5-46 has been amended to prohibit one from possessing a bee hive for two years if they have been deemed a nuisance owner pursuant to the provisions of Chapter 5.

Article IX – Apiaries is a completely new Article and imposes the regulations for keeping bees within the city limits of Grand Island. Some of the highlights are that the hives must be enclosed by a “flyway,” one can only have 2 hives or boxes per lot and someone wanting to keep bees must apply for and be granted a permit by the Central District Health Department. The requirements for the permits include an educational component.

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

The Animal Advisory Board recommends that the Council approve the Ordinance amending Chapter 5 of City Code.

Sample Motion

Move to approve the Ordinance.

ORDINANCE NO. 9537

An ordinance to amend Chapter 5 of Grand Island City Code; to amend Section 5-1 and Section 5-46; and to add Sections 5-48 thru 5-57; 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 and Section 5-46; and Sections 5-48 thru 5-57 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. To 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:

- Human beings;
- Animals that are sold commercially as food for human consumption;
- Animals that are slaughtered as food for human or animal consumption;
- Animals that are slaughtered or processed for human use;
- Animals that are used for scientific research conducted at commercial or academic facilities;
- Animals that are used as commonly acceptable bait for lawful fishing activities; or
- Vermin.

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

- Euthanization or treatment by a Veterinarian or at a Veterinary Hospital or Clinic;
- Euthanization or treatment at an Animal Control Facility;
- Killing or injuring by members of law enforcement or Animal Control Officers in the course of their duties;
- Killing or injuring by persons protecting themselves or others from potential death or serious injury; or
- Training or disciplining an animal using commonly accepted methods.

Approved as to Form	□ _____
April 24, 2015	□ City Attorney

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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. Any person employed or designated by any Animal Control Authority or law enforcement agency to enforce local, State, or Federal animal control laws.-

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.

Apiary. A place where bee colonies are kept.

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.

Bee. Any stage of the common domestic honey bee, Apis Mellifera Species.

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.

Colony. A hive and its equipment and appurtenances, including bees, comb, honey, pollen and brood.

Commercial Animal Establishment. Any pet shop, grooming shop, auction facility, riding school or stable, performing animal exhibition, or kennel with the following exceptions:

An animal shelter;

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A veterinary hospital or clinic;
A commercial facility that sells, slaughters, or processes animals; or
A commercial or academic animal research facility.

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

Cruelly neglect. 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. An animal that has killed a human being; has inflicted injury on a human being that requires medical treatment, or has killed a domestic animal without provocation with the following exceptions:

An animal that is provoked;
An animal that is serving as a guard for persons or property; or
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.

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

Health Department. The agency or organization 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.

Hive. **A structure intended for the housing of a bee colony.**

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

Humane killing. 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.

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Livestock. Any hoofed 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. Treatment administered by a physician or other licensed health care professional.

Mutilation. 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:

A boarding kennel; or

A veterinarian, veterinary hospital, or veterinary clinic.

Performing Animal Exhibition. Any spectacle, display, act, circus, fair, or event in which animals perform.

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 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 when unprovoked:

inflicts an injury on a human being that does not require medical treatment; or

injures a domestic animal; or

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.

Restraint. Securing an animal by a leash or lead which results in it being under the control of owner or custodian or being confined within the real property limits of its owner or custodian.

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

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Running at Large. Any dog or other animal off outside the premises of its owner or custodian and not controlled by a leash, cord, chain, rope, cage or other suitable means of physical restraint.

Shelter. Any structure with a roof and at least three (3) walls designed 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. Intentionally subjecting an animal to pain, suffering, or agony with the following exceptions:

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.

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 and insects.

Wild Animal. 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.

§5-46. Nuisance Owner

(A) Any owner or custodian in possession of any animal or bee hive regulated by this

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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:

- a. 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
- b. 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 or bee hive(s) 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 or bee hive(s) 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 or bee hive(s) resides, the animal or bee hive(s) 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 or bee hive(s) 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 or keeping bees 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 or bee hive(s). Ultimate disposition of the animal or hive(s) 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 or bee hive(s) is in the possession of a prohibited owner, each day of the violation shall constitute a separate violation.

Article IX. Apiaries

§5-48. Hives.

All bee colonies shall be kept in a hive that is capable of being inspected and with removable combs, which shall be kept in a sound and usable condition.

§5-49. Location of Hives.

No person shall establish or maintain any hive or box where bees are kept, or keep any bees on the premises within fifty (50) feet of any dwelling (excluding the dwelling of the owner of such bees) or within fifteen (15) feet of any lot line, sidewalk, alley, or other public way.

§5-50. Fencing of Flyways.

In each instance, the owner shall establish and maintain a flyway barrier at least six (6) feet in height consisting of a solid wall or fence around the hives or boxes so that all bees are forced to fly at an elevation of at least six (6) feet above ground level in the vicinity of the hive or box.

§5-51. Minimum Area Required.

No person shall establish or maintain more than two (2) hives or boxes where bees are kept on any lot.

§5-52. Standards for Management.

Any person keeping bees shall:

- (a) Minimize swarming of bees;
- (b) Provide an adequate year round source of water on the premises;
- (c) Provide an adequate number of hives or boxes; and
- (d) Maintain and manage such boxes or hives so as not to create a nuisance.

§5-53. Permits Required.

Anyone desiring to keep bees on their property in the City of Grand Island must first apply for and be granted a permit. The permit will be issued by the Central District Health Department or their designee upon payment of a permit fee as established and adopted by the Board of Health renewable annually, without inspection, upon showing of no complaints received about the bee keeping operation and payment of renewal fee as established and adopted by the Board of Health. If complaints have been received within the prior year, a new application and application fee shall be submitted. All permit fees paid pursuant to the provisions of this section shall be paid to the Central District Health Department. Permits shall include, but not be limited to, the following information:

- a. Applicant must be a resident of the City of Grand Island;
- b. Proof of the specific lot or parcel inclusive of the lot size (available for free on the City of Grand Island's website) where the bees are to be kept;

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- c. Whether or not the lot is the primary residence of the applicant;
- d. Location of the proposed hives or boxes on the lot or parcel;
- e. Two (2) forms of contact for the applicant;
- f. Proof of education on bee keeping which may be proven by:
 - a. Certificate of completion of an educational course including a minimum of three (3) hours of practical application;
 - b. Certificate of completion of an educational course with a minimum of three (3) hours of practical application under an established beekeeper in the State of Nebraska signed by the cooperating beekeeper;
 - c. Affidavit of applicant that the applicant has spent a minimum of twelve (12) hours of internship under an established beekeeper in the State of Nebraska signed by the cooperating beekeeper; or
 - d. Affidavit of applicant stating that the applicant has been active in beekeeping in Nebraska for a period of not less than two (2) consecutive years and has established hives.
- g. Enclosure of the hives or boxes by a six (6) foot privacy structure with a sign posted on the enclosure stating that bee hive(s) are present;
- h. Year round water source for the bees; and
- i. Other such information as may be deemed necessary by the issuing agency.

§5-54. Falsifying Permits.

All statements on the required permits will be made under oath. Upon showing of any false statements by the applicant, the applicant shall be guilty of an infraction punishable by a fine pursuant to §1-7 of this Code and their hives or boxes will be forfeited to the appropriate agency. The applicant will be barred from keeping bees for a period of two (2) years upon proof of falsifying a permit.

§5-55. Queens.

In any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition towards swarming, it shall be the duty of the beekeeper to re-queen the colony. Queens shall be selected from stock bred for gentleness and nonswarming characteristics.

§5-56. Nuisance.

The keeping by any person of bee colonies in the City not in strict compliance with this section is prohibited. Any bee colony not residing in a hive structure intended for beekeeping, or any swarm of bees, or any colony residing in a standard or homemade hive, which, by virtue of its condition, has obviously been abandoned by the beekeeper, is deemed a hazard to the health and welfare of the community, is unlawful, and may be removed from the City or turned over to a beekeeper by the Animal Control Authority or their designee.

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§5-57. Penalty for Violations.

Any person upon whom a duty is placed by the provisions of this Article who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of this Article, shall be fined pursuant to §1-7 of this Code and be subject to the provisions of §5-46 Nuisance Owner of this Code. Each day that a violation of any section of this chapter continues shall constitute a separate and distinct offense and shall be punishable as such. The penalties herein provided shall be cumulative with and in addition to any penalty or forfeiture elsewhere in this chapter provided.

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

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: April 28, 2015.

Jeremy L. Jensen, Mayor

Attest:

RaNae Edwards, City Clerk