

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date	November 23, 2009
	Agenda Item No. 55 Roll Call No. <u>09-</u> Communication No. <u>09-817</u> Submitted by: Randy A. Wetmore, Assistant City Manager	

AGENDA HEADING:

Consider the recommendations for modifications to the Vicious Dog Ordinance and direct preparation of an ordinance to codify the changes.

SYNOPSIS:

At the September 28, 2009 Council Workshop, a presentation was made regarding the Vicious Dog Ordinance and possible modifications to address some of the issues that have come up in recent months. There was consensus among the Council for staff to bring back recommendations to amend the ordinance.

Some of the recommendations include: increasing the licensing fee, have the vicious dog micro-chipped as a requirement for licensing, have a unique tag for vicious dogs, owners who are repeat offenders are prohibited from owning a vicious dog for five years, develop a special events permit for dog events and others.

FISCAL IMPACT:

Amount: \$5,000 (additional revenue from license fee increases)

Funding Source: FY 2010 Operating Budget, CCL070000, GE001, 455630, page 40.

ADDITIONAL INFORMATION:

At the Council workshop on September 28, 2009, there was a presentation regarding vicious dogs and whether there should be a total ban of the dog (in this case, pit bulls), or to modify the ordinance to better address the concerns and issues that have been brought forward about vicious dogs. At the meeting, there was consensus among the Council members to review possible changes to the ordinance. The recommended changes, once approved, will come back for Council consideration at a future meeting in ordinance form.

Staff has met with some individuals of the public who expressed a desire to have some input about the issue before the recommendations were brought forward. Those suggestions have been considered, as well, in the development of the final recommendations.

License Fee

The recommendation is to increase the vicious dog license fee from \$15 for spayed/neutered and \$35 for animals not spayed/neutered to \$45 for spayed/neutered vicious dogs and \$55 for not spayed/neutered vicious dogs.

The increases are requested because of the extra time it takes the Clerk's office to process a vicious dog license application. The reduced fee for spayed/neutered dogs is for an incentive to control the pet population.

This change is on the Council Agenda for Council consideration as Attached Item A. This is being brought forward at this time because license renewals are going to be sent in the next two weeks.

License application form

It is recommended that this section have the following additions:

*Require the licensee to sign a statement that they will use a basket muzzle for their vicious dog any time the dog is in a city park, or anytime the dog is off their property, after the vicious dog has been involved in an unprovoked bite.

*All vicious dogs shall wear a basket muzzle when in a city park.

*All vicious dogs shall wear a basket muzzle when off of the owner's property, after the dog has been involved in an unprovoked bite. There was a suggestion the city detail the type of basket muzzle and where such muzzles could be purchased. A basket muzzle is a readily known type of muzzle. The dog owner would be responsible for the purchase of the basket muzzle model that best fits their dog. Likewise, where they would purchase a muzzle is their choice.

Micro-chipped

Owner shall provide proof, and the micro-chip number, that the animal has been micro-chipped, at the time of licensing. Previously, the animal had to be micro-chipped if it was declared vicious and under impoundment. This ordinance change would make the micro-chipping of all vicious dogs, by behavior or breed, a condition of licensing.

Confinement

In the presentation, mention was made of having owners provide photographs of their confinement space or have an inspection done by the city's contractor. After reviewing this idea, it was found that the logistics, practicality and cost was too difficult to implement. The present requirements remain and are required of vicious dog owners.

Insurance requirements

In the presentation, it was suggested that the insurance requirement be increased from \$100,000 to \$300,000 of liability insurance. Upon further investigation, while some individuals may be able to purchase the higher coverage, many may not. It is not the intent to make the required insurance a barrier to licensing a vicious dog. Therefore, it is recommended to maintain the \$100,000 personal liability insurance coverage, as in a homeowner's or renter's policy.

Insurance change on a vicious dog not licensed

The change is to require the vicious dog owner to notify the City Clerk's Office of a change in insurance coverage. Notification of the change of insurance coverage will allow the Clerk's Office to know if a dog has moved out of the city or the owner has cancelled their policy.

New Items for Consideration

Tag for Vicious Dogs

The size and shape of tags, such as a large red circle issued to vicious dog owners, would be different from other dogs. The purpose of a different tag is to let the public and animal control know if a dog is vicious by either breed or behavior.

Transfer of license on change of ownership

The owner of a vicious dog shall notify the City Clerk's Office of any change in the ownership status within one business day of the occurrence. This information will let the Clerk's Office know of changes and will assist in determining the owner of the dog, should it be picked up in the future.

Repeat Offender

If the owner is a repeat offender with a vicious dog found running at large three or more times in a continuous 3 year period, the owner cannot own any vicious dog for five years. This is for those cases where there has been repeated disregard for the vicious dog ordinance.

Required Training

Require mandatory training of a vicious dog owner when the dog is found not properly confined/leashed. Training provided by the City's animal control services contractor, cost covered by dog owner. (Not required if dog is not reclaimed from impound)

Dog Declared Vicious but not Impounded

For cases in which the owner of a dog is declared vicious, but not impounded, and does not complete the training class, the City would have the dog impounded and held for seven days, and then destroyed in a humane manner.

Dog Impounded

A dog already in impound would remain in impound until the owner completes the class and is issued a city pet license. If the owner does not make application, during the period of impoundment, to attend the class or does not complete the class during the period of impoundment or within seven days of application for the class, the dog would be destroyed in a humane manner at the end of the seven day period of impound. Classes would be offered a minimum of once a week by the animal control contractor.

Collection of City Incurred Costs

Already somewhat in place, may need to clarify that even without a hearing, the dog owner would need to pay the fees. Start a formal process of billing by the animal control contractor for city fees, if the owner does not reclaim their impounded vicious dog, followed by a small claims filing by the City of Des Moines Legal Department.

Provide Information

Require anyone owning an animal that bites a person and/or a domestic animal to provide their name, address and telephone number to the person that was bit and/or the owner of the domestic animal that was bit.

Provide Insurance Information if Bite Occurs

Require a vicious dog owner to provide their insurance company name, policy number and a telephone contact number of their insurance company to the person bit or the owner of a domestic animal that was bit.

Quarantine

Require the owner of an animal that bites to produce their animal to the chief humane officer or animal control for quarantine. (Home, animal shelter or veterinary clinic for quarantine, as permitted by city ordinance.)

Addition to the Dangerous Animal Definition

Add to the dangerous animal definition, a vicious dog that has already been declared a vicious dog by behavior or is a vicious dog breed and is not properly confined or leashed and is involved in an unprovoked bite and causes death or serious injury, requiring professional medical care, to a person or domestic animal.

Permits for Special Events

Add language to the ordinance that would allow special events involving breeds labeled by our ordinance as “vicious”.

It should be narrowly defined in allowing exceptions. Items such as having approval by the Chief of Police, for “vicious dog breeds;” requiring the dog to be licensed where the dog lives, unless their jurisdiction does not license any dog or the dog is exempt from licensing there, and the dog owner submits proof of current rabies vaccination and liability insurance to the event coordinator who will make it available to the police department and/or animal control, if requested. There would also need to be an exemption that would allow the “vicious dog breeds” to be out of confinement and/or off leash while actively engaged in the event.

Or in lieu of requiring the vicious dog breed dog owner to submit proof of insurance, the event would be required to have liability insurance in the amount of at least \$100,000. Have the event sponsor supply insurance to the City of Des Moines included as an additional insured, similar to the requirement for street closures.

The owner/keeper of a vicious dog breed dog must have proof of their participation in the special event, must keep the dog(s) properly leashed and/or confined when not actively participating in the actual special event and cannot keep the dog(s) in the City of Des Moines for more than fourteen (14) calendar days without licensing the dog(s) as a vicious dog with the City of Des Moines Clerk’s Office.

As part of the application process for an organization to have an event at the Iowa State Fair Grounds, there is a requirement that the organization provide proof of liability insurance in the amount of at least \$1,000,000

Additional Items discussed but not included as part of the recommendations.

Costs

When implementing ordinances in which a cost must be carried by the owner, is the cost going to be prohibitive to the owner? When making recommendations for this ordinance the cost of the requirements were minimal compared to the public safety issues.

Holding of Animals

Could the owner of a dog be given the option to sign a release to surrender the animal to the City Humane Officer for immediate euthanasia, rather than the animal experiencing the stress of being held in impound for a length of time? That option is already available; however there may be an issue of ten (10) day quarantine, if the dog was involved in a bite.

Re-home vicious dogs

Is it possible for the animals to be surrendered to the ARL to be re-homed if the owner does not reclaim the dog? The ARL does re-home many animals throughout the year. However, it is not recommended to re-home a vicious dog. It is not believed the City or its contractor should be in the business of placing animals that are deemed to be vicious back into the community.

Higher Monitoring

Have a higher level of monitoring, consequences and restrictions for those who do not comply with the safety issues surrounding vicious dogs. The present ordinance with the recommended modifications provide for consequences for not taking proper care and control of their animal.

Picking up Pit Bulls

Does animal control pick up pit bulls, even if they are not involved in a bite incident and even if they are not at-large? Yes. When the City Clerk is made aware through rabies shot certifications, the information is forwarded to the Animal Control contractor.

Impounding on the basis of vicious breed

Is public safety improved by impounding dogs solely on the basis of being a vicious breed dog when their owners are not in compliance with the ordinance?

Pit Bull breed dogs are an intelligent and powerful breed of dog that, if determined to bite, can cause serious injury and expense to their victims. Because of that, it is not being recommended to exempt Pit Bull breed dogs from special regulations.

In addition to the recommendations, it was requested that a review of Iowa cities with pit bull bans in place be surveyed. The four communities with bans are Council Bluffs, Carter Lake, Maquoketa and Ottumwa. A brief summary of each community's handling of the ban is below.

Ottumwa, Iowa

A ban is in place because of a bite incident in 2003 that involved Pit Bull breed dogs that killed a three year old child. Before that, there were Pit Bull breed dog restrictions in place.

When the ban was initially implemented several Pit Bull breed dogs were found running at-large, it appeared that several owners simply turned their dogs loose in the city and out in the county. Since then, there has not been a problem with the enforcement of the ban.

If a person is found to have a Pit Bull breed dog, they are told to remove it from the City, and if they don't, they are issued a criminal citation. After that, if they still don't comply, they are arrested and taken to jail. The dog can be impounded, but typically is not because of the cost of the care and/or euthanasia of the dog.

Maquoketa, Iowa

There was a ban in place since the 1980's; however, it was revised after encountering legal issues with the definition. The ban was in place because of bites involving Pit Bull breed dogs.

With the revised ban, the problem is that there is not a veterinarian in the area that will provide an opinion for enforcement purposes and because of that, a police officer is currently being trained to identify breeds of dogs.

When enforcement begins again, there will be an abatement process, and then issuance of civil infractions and ultimately, a district court order to remove the dog from the city.

Council Bluffs, Iowa:

A ban is in place because of bites involving Pit Bull breed dogs, and the numbers of bites have gone from 29 in 2004 to zero in 2008. When it was implemented those people that owned Pit Bull breed dogs could keep them, but no new Pit Bull breed dogs were allowed.

The enforcement, along with other routine animal control enforcement, has been done so that there is no noteworthy extra expense. Now when an old Pit Bull breed dog is found running at-large, and it was allowed, the owner can reclaim it, or if there is a history of problems with the dog, the issue is decided in district court.

Now when a new Pit Bull breed dog is found in the City, and it was not allowed, the owner is given 24 hours to remove it from the City or the owner is given a criminal citation and it is removed.

Carter Lake, Iowa:

A ban is in place because of bites involving Pit Bull breed dogs and the dogs running at-large. Only three people owned Pit Bull breed dogs prior to the ban, they were allowed to keep their dogs. The enforcement has not caused any extra expense.

If a person is found to have a Pit Bull breed dog, they are told to remove it from the City, and if they don't, they are issued a criminal citation and ultimately, the dog can be impounded.

PREVIOUS COUNCIL ACTION(S): NONE

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Recommendations approved by Council will come back in ordinance form for formal consideration and approval.

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