

CITY COUNCIL AGENDA REQUEST FORM

Today's date: 11 / 8 / 16

Date of meeting 11 / 16 / 16

(City Council meetings are held the 1st and 3rd Wednesday of each month.)

Name of Citizen, Organization, Elected Official, or Department Head making request:

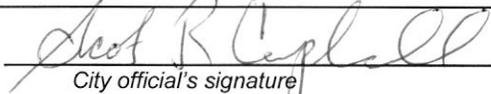
Scot Campbell

Address: City Hall

Phone number and email address: 263-0534 scampbell@sandpointidaho.gov

Authorized by: Scot Campbell

name of City official



City official's signature

(Department Heads, City Council members, and the Mayor are City officials.)

Subject: Amendment to City Code Title 5 Chapter 4 Animal Control

Summary of what is being requested: Changing Ordinance to reflect change to Idaho Code.

Remove reference to Vicious Animal and insert definitions for At-Risk and Dangerous Dogs; Justified

Provocation and other minor modifications.

The following information **MUST** be completed before submitting your request to the City Clerk:

1. Would there be any financial impact to the city? Yes No

If yes, in what way? _____

2. Name(s) of any individual(s) or group(s) that will be directly affected by this action:

Have they been contacted? **Yes or No**

3. Is there a need for a general public information or public involvement plan? **Yes or No**

If yes, please specify and suggest a method to accomplish the plan: Yes No

4. Is an enforcement plan needed? **Yes or No** Additional funds needed? **Yes or No**

Yes No

Yes No

5. Have all the affected departments been informed about this agenda item? **Yes or No**

Yes No

This form must be submitted no later than 5 working days prior to the scheduled meeting. All pertinent paperwork to be distributed to City Council must be attached.

ITEMS WILL NOT BE AGENDIZED WITHOUT THIS FORM

**CITY OF SANDPOINT
AGENDA REPORT**

DATE: 11/8/16

TO: MAYOR AND CITY COUNCIL

FROM: Scot Campbell, City Attorney *ARC*

SUBJECT: Animal Control Ordinance Amendment

DESCRIPTION/BACKGROUND:

In the 2016 Legislative Session reference to “vicious dog” was removed and replace with the Idaho Dangerous and At-Risk Dogs Act. Changes to our ordinance reflect those State changes.

STAFF RECOMMENDATION:

Approve proposed changes to Sandpoint City Code Chapter 4 Animal Control.

ACTION:

Adopt amended ordinance.

WILL THERE BE ANY FINANCIAL IMPACT? HAS THIS ITEM BEEN BUDGETED?

No financial impact

Nothing budgeted

ATTACHMENTS:

Proposed Ordinance with changes.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SANDPOINT, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AMENDING SANDPOINT CITY CODE TITLE 5 CHAPTER 4, ANIMAL CONTROL, TO ADD AND AMEND DEFINITIONS AND DELETE REFERENCE TO VICIOUS ANIMAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING SECTIONS; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, The State Legislature recently amended state statutes regulating vicious animals and dangerous dogs, requiring changes to Sandpoint City Code.

Now therefore, be it ordained by the Mayor and City Council of the City of Sandpoint, Idaho:

Section 1. That Sandpoint City Code 5-4-1, DEFINITIONS, be amended as follows:

AT-RISK DOG: Any dog that without justified provocation bites a person without causing a serious injury.

~~CITY COUNCIL: The city council of the city of Sandpoint, Idaho.~~

COMMERCIAL KENNEL OPERATION: Includes any kennel facility which meets any one or more of the following qualifications:

A. Breeding for sale of more than two (2) litters each year.

B. Offering a service for compensation in conjunction with the operation of a kennel; said service to include, without limitation:

1. Training.

2. Grooming.

3. Boarding.

4. Breeding.

C. Any kennel raising competition dogs for the purposes of compensation, ~~greyhound-racing, sled dog racing,~~ dog pulls or other events.

DANGEROUS DOG: Any dog that:

A. Without justified provocation has inflicted serious injury on a person; or

B. Has been previously found to be at risk and thereafter bites or physically attacks a person without justified provocation.

JUSTIFIED PROVOCATION: to perform any act or omission that a reasonable person with common knowledge of dog behavior would conclude is likely to precipitate a bite or attack by an ordinary dog.

PUBLIC NUISANCE: Any animal that:

A. Is in violation of the rabies provisions in this chapter;

~~B. Creates a noise disturbance as defined in Sandpoint City Code 5-2-6-10Has on more than one occasion by loud or frequent yelping, barking, crying or howling annoyed any reasonable person;~~

~~VICIOUS ANIMAL: Any animal that:~~

~~A. Has inflicted severe injury on a human being without provocation on public or private property; or~~

~~B. Has killed or inflicted serious injury to a domestic animal without provocation while off its owner's property; or~~

~~C. Has twice in forty eight (48) months without provocation bitten or wounded a human being; or
D. Has twice in forty eight (48) months while off its owner's property attacked or approached in a menacing or terrorizing manner so as to confine the movement of, or instill fear in, a reasonable person.~~

Section 2. That Sandpoint City Code 5-4-4, KENNEL LICENSE REQUIRED, under section C-6, Care and Treatment of Sick and Injured Animals, be amended as follows:

- b. Animals shall be separated according to the following standards. Commercial and noncommercial kennels shall meet these requirements:
- (1) Females in estrus shall not be housed in the same kennel enclosure as males, except for the purposes of breeding;
 - (2) Any animal exhibiting a vicious disposition Dangerous Dog shall be housed individually in a separate kennel enclosure;

Section 3. That Sandpoint City Code 5-4-6 be amended as follows:

~~5-4-6: VICIOUS ANIMALS DANGEROUS DOGS:~~

~~Proceedings against any dog which bites or physically attacks a person in the city shall be in accordance with Idaho Code Section 25-2809, et seq. "Idaho Dangerous and At-Risk Dogs Act"~~

~~A. Declaring An Animal Vicious: If the department has reasonable cause to believe that an animal is vicious, within the meaning of this chapter, the department may declare the animal vicious and impound it.~~

~~B. Notice Of Vicious Animal Declaration: Within five (5) days of declaring an animal vicious, the department shall notify the animal's owner in writing of the declaration. The notice shall identify the requirements and conditions for maintaining a vicious animal as set forth in this chapter. If the owner cannot be located, the animal may be immediately impounded and notice shall be posted on the owner's property or sent by certified mail to the owner's last known address.~~

~~C. Hearing On A Vicious Animal:~~

~~1. The owner of an animal declared vicious shall have the right to file, within five (5) days after receiving notice, a written request for a hearing to contest the vicious animal declaration. The hearing board shall convene a hearing within fourteen (14) days after the department receives the owner's written request.~~

~~2. A notice of hearing shall be sent to the owner within seven (7) days of the hearing date and shall include the time, place and nature of the hearing, include reference to the particular section of this chapter and a short, plain statement of the matters asserted.~~

~~3. The hearing shall be informal and the rules of evidence shall not apply. The owner may be represented by counsel, present oral and written evidence, and may cross examine witnesses.~~

~~4. The department shall issue a decision within five (5) days after the close of the hearing and shall notify the owner either by certified mail or by personal service.~~

~~5. If the hearing board upholds the vicious animal declaration, the owner shall comply with all of the requirements and conditions for maintaining a vicious animal as set forth in this chapter or as imposed by the hearing board. These conditions shall apply to the animal for the remainder of its life. At the discretion of the hearing board the animal may be impounded forthwith and humanely~~

ORDINANCE NO. _____

destroyed.

~~6. An audio recording of the proceedings shall be made and kept in accordance with the normal procedures for maintaining evidence.~~

~~D. Requirements For Possessing A Vicious Animal: Any person who owns, keeps, harbors, possesses or has custodial care of a vicious animal within the meaning of this chapter shall:~~

~~1. Restrain Animal: Keep such animal restrained in a manner which prevents any further attacks, or bites, and~~

~~2. Spay Or Neuter: Spay or neuter the animal, the cost to be borne by the owner or keeper of the animal, and~~

~~3. Secure Enclosure: Maintain a secure enclosure meeting at least the following standards: An outside secure enclosure shall be a minimum of five feet (5') wide, ten feet (10') long and five feet (5') in height above grade, and with a horizontal top covering said area, all to be at least 9-gauge chainlink fencing with necessary steel supporting posts. To prevent escape of the animal, the floor shall be at least three inches (3") of poured concrete with the bottom edge of said fencing imbedded in the concrete or extending at least one foot (1') below grade. The gate must be of the same material as the fencing, fit closely and be securely locked. The enclosure must contain and provide protection from the elements for the dog, and~~

~~4. Chain, Cable, Or Other Tether: Any time a vicious animal is left unattended on the owner's or keeper's property and is outside a secure enclosure or the owner's or keeper's home, it must be securely and humanely restrained by chain, cable and trolley, or other tether of sufficient strength to prevent escape, and~~

~~5. Perimeter Fence: In addition to the requirements in subsections D3 and D4 of this section, for owners or keepers of vicious animals who maintain their animal out of doors, a portion of their property must be fenced with a perimeter or area fence. Within this perimeter fence, the animal must be humanely confined inside a secure enclosure. The secure enclosure may not share common fencing with the area or perimeter fence, and~~

~~6. Physical Restraint While Off The Owner's Or Keeper's Property: The animal shall be muzzled in such a manner as to prevent it from biting or injuring any person, and kept on a leash no longer than six feet (6') with a person physically capable of controlling such animal, and~~

~~7. Warning Sign: The owner of a vicious animal shall display in all prominent places on the owner's premises a clearly visible warning sign indicating that there is a vicious animal on the premises. The sign must be readable from a public highway or thoroughfare and posted at all access points of the owner's or keeper's property. The owner shall also display a sign with a symbol warning children of the presence of a vicious animal. Similar signs shall be posted on the animal's kennel, pen or enclosed structure, and~~

~~8. Other Requirements: Such other requirements as are reasonable in the circumstances as to:~~

~~a. Size, construction and design of enclosure;~~

~~b. Restricting the dog to locations where access to human beings and other domestic animals is minimal;~~

~~c. Requirements as to type and method of restraints and/or muzzling of the dog;~~

~~d. Photo identification or permanent marking of the dog for purposes of identification;~~

~~e. Requirements to allow inspection of the dog and its enclosure by the Sandpoint animal control officer or any other law enforcement agency or person authorized by the city, and to produce upon~~

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~~demand proof of compliance with all restrictions and conditions placed upon the owner and/or custodian of the dog; f. Restitution, and~~

~~9. Insurance: Shall be required to provide proof of five hundred thousand dollars (\$500,000.00) in liability insurance specifically naming the animal as a covered liability and shall provide the city with a current copy of said insurance policy. The city shall also be named as an additional insured, and be provided thirty (30) days' actual notice prior to cancellation of such policy, and~~

~~10. Department Notification: Shall notify the department in the following manner: Owners of a vicious animal who sell or in any way transfer the ownership, custody, care or residence of the animal shall, at least fourteen (14) days prior to the sale or transfer of ownership or residence, inform the department in writing of the name, address and telephone number of the new owner or custodian or new residence address. Said notification shall include the name and description of the animal. The owner shall, in addition, notify the new owner in writing of the details of the animal's record, the terms and conditions of the animal's maintenance, and provide the department with a copy thereof. Said copy shall contain signed acknowledgement by the new owner of his/her receipt of the original, and~~

~~11. Escape Of Animal: If a vicious animal escapes, the owner shall immediately notify the department and shall make every effort to recapture the animal, and~~

~~12. Premises Inspection: The owner of a vicious animal shall contact the department on an annual basis and shall have an inspection of the premises wherein the vicious animal is confined. The inspection shall deal with the security of the confinement and all other items listed above, and~~

~~13. Failure To Comply: If the owner of any animal declared vicious fails to comply with all of the above requirements, the animal may be impounded forthwith, and humanely destroyed.~~

~~14. Violation: Any person owning or having custody of any vicious animal is guilty of a misdemeanor if, as a result of that person's failure to exercise reasonable care in following the imposed restrictions, the animal injures any other person or animal engaged in lawful activities. This does not apply to military or police dogs actively engaged in the pursuit of their official duties.~~

Section 4. That Sandpoint City Code 5-4-12-A, IMPOUNDED ANIMALS, be amended as follows:

A. Cause For Impoundment: The department may impound an animal for, but not limited to, the following circumstances: any released or escaped domestic or wild animal, unlicensed dog, running at large, suspected exposure to rabies, animals being kept in unsafe or unsanitary conditions, or lacking proper care, nutrition, or housing; declared ~~vicious~~Dangerous Dog, or poses a serious harm or health risk to the public, an animal disturbing the peace, or has injuries or a communicable disease, or for any other violation of this code.

Section 5. Severability. Should any provision of this Ordinance be deemed unlawful or unconstitutional, such finding shall not affect the remaining provisions of this Ordinance.

Section 6. Repeal of Conflicting Provisions. All provisions of the current Sandpoint City Code which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

ORDINANCE NO. _____

Section 7. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

Enacted by the City Council as an ordinance of the City of Sandpoint on the ___ day of _____, 2016.

Shelby Rognstad, Mayor

ATTEST:

Maree Peck, City Clerk

SUMMARY OF ORDINANCE NO. _____
Animal Control

AN ORDINANCE OF THE CITY OF SANDPOINT, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AMENDING SANDPOINT CITY CODE TITLE 5 CHAPTER 4, ANIMAL CONTROL, TO ADD AND AMEND DEFINITIONS AND DELETE REFERENCE TO VICIOUS ANIMAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING SECTIONS; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

SECTIONS 1 through 4 amend Sandpoint City Code Title 5, Chapter 4; SECTION 5 provides for severability; SECTION 6 provides for repeal of conflicting provisions; and SECTION 7 provides for publication and an effective date.

The full Ordinance is on file with the Sandpoint City Clerk and will be promptly provided during regular business hours to any citizen on personal request.

Dated the _____ day of November, 2016.

Maree Peck, City Clerk

Publication Date: _____

STATEMENT OF LEGAL ADVISER

I, Scot R. Campbell, legal adviser for the City of Sandpoint, Idaho, have examined the foregoing summary of Sandpoint Ordinance No. _____ and find it to be a true and complete summary of said ordinance that provides adequate notice to the public of the contents thereof.

Scot R. Campbell, City Attorney