

--MEMORANDUM--

TO: City Council

FROM: Gregory E. Buckley
City Manager

DATE: July 14, 2017

SUBJECT: Ordinance Amendments Related to Regulation of Animals in the Community, on Public Properties and in City Parks

The July 17 City Council meeting agenda includes three proposed ordinance amendments, on the above-cited topics. I believe that these amendments reflect the consensus of the Council from our discussions at the May and June work sessions.

Below, I have presented comments describing what each amendment is intended to accomplish.

Note that none of these amendments address the possible prohibition of animals at community special events. I understand from our earlier discussions that City Council members wish to address this topic separately, later in the year.

1. Ordinance to Repeal and Recreate Section 6-5-7 of the Municipal Code, Currently Entitled "Restrictions on Keeping Dogs and Cats"

Commentary: This ordinance is intended to provide a more clearly stated "leash law" to apply to animals when off the premises of the owner. It also allows for animals off the premises of the owner to be "effectively contained" in cages or kennels.

Significant changes to current ordinance:

--Expands scope to cover other animals, as well as dogs and cats.

--Adds definition for "responsible person," in addition to the owner, so a person in charge of an animal, other than the person who "owns or harbors" that animal, can be cited for violations of this section of the Code.

--Under the definition of "At Large:"

--Adds recognition that an animal can be contained on a property by means of an electronic barrier ("invisible fence") as well as by a fence, rope, chain or leash.

--More clearly defines how an animal must be controlled off-premises—upon City property or the property of another without the owner's consent. Specifically, the animal must be under control by use of a collar and leash not exceeding 6 feet in length, or contained in a carrier

or kennel. (Note: some have suggested allowing longer leashes, like the retractable leashes that can often extend 12 to 26 feet, but staff questions whether such leashes allow adequate control in public settings.)

2. **Ordinance to Repeal and Recreate Section 6-5-9 of the Municipal Code, Currently Entitled “Dogs and Cats Prohibited on Public Grounds and Cemeteries”**

Comentary: This Ordinance expands the current restriction on dogs and cats on “public grounds and cemeteries” to address all animals. Further, it expands the prohibited areas to include the interior of municipal buildings—a matter not addressed in the current Code.

Significant changes to current ordinance:

--Prohibition extended to all animals.

--Prohibition extended to the interior of municipal buildings

--More extensive list of exceptions, including cross-reference to exceptions addressed in other ordinances (notably, the Parks Ordinance)

--Establishes ability of City Council to enact, by resolution, additional prohibitions or exemptions on a temporary basis

3. **Ordinance to amend Title 7, Chapter 1 of the Municipal Code, Entitled “Parks”**

Comentary: This amendment proposes major changes to the current ordinance language on animals in parks. It would replace the current broad prohibition on animals in parks with language generally allowing animals in parks, provided such animals are controlled on a leash of six feet or less in length or contained in a cage or kennel.

As proposed, there would continue to be a ban on animals at Neshotah Beach, but it would be limited to the months of May through September. It does provide for a narrow corridor at the far south end of the groomed beach area, where dogs could be taken to the lake to access the beach area south of Neshotah Beach. It does not open up the beach to dogs in the early morning hours during May-September, something we have discussed.

In addition, the amendment allows for “off leash” dogs at designated dog parks (City currently only has one dog park, at Zander Park), and on the public beaches along Memorial Drive.

I have attached copies of the current ordinances that are proposed to be amended by the ordinances described above, if you wish to compare them with the language of the amendments.

ORDINANCE

AN ORDINANCE to repeal and recreate portions of Section 6-5-7 of the Municipal Code, currently entitled "Restrictions on Keeping Dogs and Cats," to expand the scope of this ordinance to cover all animals, to modify the definitions of "owner" and "at large," and to provide for certain exemptions to the restrictions addressed therein.

The Council of the City of Two Rivers ordains as follows:

SECTION 1. That Title 6 "Licenses," Chapter 5, "Licensing of Dogs and Regulation of Animals," Section 7 "Restrictions on Keeping Dogs and Cats," of the Municipal Code is hereby repealed and recreated to read as follows:

Title: Restrictions on Keeping Dogs, Cats and Other Animals

(a) **DEFINITIONS.**

- (1) "Owner" means any person owning, harboring or keeping a dog, cat or other animal and the occupant of any premises on which said animal remains or to which said animal customarily returns daily for a period of at least ten(10) days is presumed to be harboring or keeping the animal, within the meaning of this ordinance.
- (2) "Responsible Person" means the Owner or other person having custody, control or authority over an animal and/or a person in a position to provide care and be accountable for said animal..
- (3) "At Large" means the following. An animal shall be considered at large when:
 - (a) On the premises of the owner, or upon the premises of another with the property owner's consent, said animal is outside a building or fenced area and not effectively confined to said premises by a leash, rope, chain, or electronic barrier, or within the immediate control of its owner; or
 - (b) Off the premises of the owner, and upon City-owned property (including public street and alley rights of way) or upon the premises of another without the property owner's consent, and said animal is neither:

- (1) Effectively controlled by the owner or other responsible person accompanying such animal, through the use of a collar and leash not exceeding six (6) feet in length; nor
- (2) Effectively contained within a cage or kennel, and under the control of the owner or other responsible person who is at all times within six (6) feet of said cage or kennel.

(b) RESTRICTIONS.

It shall be unlawful for any person within the City of Two Rivers to own, harbor, or keep any animal, or be the responsible person for any animal which:

- (1) Habitually pursues any vehicle upon any public street, alley or highway in the City.
- (2) Attacks any person or domestic animal.
- (3) Is at large within the limits of the City.
- (4) Habitually barks or howls to the annoyance of any person or persons. If an animal is the subject of complaints regarding the animal's howling or barking on two or more dates, filed with the Police Department within any twelve (12) month period, the animal shall be deemed to habitually bark or howl as described in this section. One such complaint may be made by a law enforcement officer.
- (5) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.

(c) EXCEPTIONS

An animal shall not be considered at large within the meaning of this section if:

- (1) Within the owner's motor vehicle or the motor vehicle of another with the consent of the owner of said motor vehicle; or
- (2) Exempted under provisions of Title 7, Chapter 1 of City Ordinances, "Parks," or Title 6, Chapter 5, Section 9 of City Ordinances, "Dogs, Cats and Other Animals Prohibited on Public Grounds and Cemeteries and in Public Buildings."

(d) PENALTY

In addition to any other penalty available, any person in violation of this ordinance shall be subject to a forfeiture of \$50.00, plus costs. Provided, however, that such persons

shall be subject to a forfeiture of \$100.00, plus costs, for a second offense not arising out of the same incident and occurring within any twelve (12) month period; and \$200.00, plus costs, for a third and any subsequent offenses not arising out of the same incident and occurring within any twelve month period. If any person shall violate this ordinance on three or more occasions in any twelve month period and such violations involve the same animal, application may be made to a court of competent jurisdiction for an order requiring the removal of the animal in question from the City limits and, upon issuance of such an order, the person owning, harboring or keeping the animal in question shall be liable for all court costs incurred in obtaining the order.

SECTION 2. This ordinance shall take effect and be in force from and after its date of passage and publication of same.

Dated this 17th day of July, 2017.

Kay L. Koach
President, City Council

Gregory E. Buckley
City Manager

Attest:

Kim M. Graves
City Clerk

Approved as to form and legality:

John M. Bruce
City Attorney

Sec. 6-5-7

Restrictions on Keeping Dogs and Cats

(a) DEFINITIONS.

(1) "Owners" shall mean any person owning, harboring or keeping a dog or cat and the occupant of any premises on which a dog or cat remains or to which a dog or cat customarily returns daily for a period of ten (10) days is presumed to be harboring or keeping the dog or cat within the meaning of this ordinance.

(2) "At Large" means the following: A dog or cat shall be considered at large when:

(a) On the premises of the owner, or upon the premises of another with the property owner's consent, said animal is outside a fenced area, and not on a leash, rope or chain or within the immediate control of the owner.

(b) Off the premises of the owner, and upon public property or upon the property of another without the property owner's consent, said animal is not on a leash, rope or chain.

(c) A dog or cat shall not be considered at large within the meaning of this section if within the owner's automobile or the automobile of another with the consent of the owner of the automobile.

(b) RESTRICTIONS. It shall be unlawful for any person within the City of Two Rivers to own, harbor or keep any dog which:

(1) Habitually pursues any vehicle upon any public street, alley or highway in the City.

(2) Assaults or attacks any person.

(3) Is at large within the limits of the City.

(4) Habitually barks or howls to the annoyance of any person or persons is in violation of this section when two (2) verified complaints (one may be by a law enforcement officer) regarding the animal's behavior are filed with the Police Department.

(5) Kills or wounds any domestic animal.

(6) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.

(c) In addition to any other penalty available, any person in violation of this ordinance shall be subject to a forfeiture of \$50.00, plus costs. Provided, however, that such persons shall be subject to a forfeiture of \$100.00, plus costs, for a second offense not arising out of the same incident and occurring within any twelve month period; and \$200.00, plus costs, for a third and any subsequent offenses not arising out of the same incident and occurring within any twelve month period. If any person shall violate this ordinance on three or more occasions in any twelve month period and such violations involve the same dog, application may be made to a court of competent jurisdiction for an order requiring the removal of the dog in question from the City limits and, upon issuance of such an order, the person owning, harboring or keeping the dog in question shall be liable for all court costs incurred in obtaining the order.

ORDINANCE

AN ORDINANCE to repeal and recreate portions of Section 6-5-9 of the Municipal Code, currently entitled "Dogs and Cats Prohibited on Public Grounds and Cemeteries," to expand the scope of this ordinance to cover all animals, to expand upon the exceptions to the prohibitions contained in this ordinance, to add a prohibition on animals inside municipal buildings, and to provide for the temporary enactment of additional prohibitions or exceptions by City Council resolution..

The Council of the City of Two Rivers ordains as follows:

SECTION 1. That Title 6 "Licenses,," Chapter 5 "Licensing of Dogs and Regulation of Animals," Section 9 "Dogs and Cats Prohibited on Public Grounds and Cemeteries," of the Municipal Code is hereby repealed and recreated to read as follows:

Title: Dogs, Cats and Other Animals Prohibited on Public Grounds and Cemeteries and in Public Buildings

(a) PROHIBITIONS

- (1) No dog, cat, horse or other animal is permitted on any school ground, municipal property or cemetery within the City, except to the extent permitted by this chapter, or by other sections of the Municipal Ordinances as referenced herein.
- (2) No dog, cat, horse or other animal is permitted inside any municipal building.

(b) EXCEPTIONS

- (1) These prohibitions shall not apply to public street and alley rights-of-way.
- (2) These prohibitions shall not apply to the grounds of City Hall, the Hamilton Community House and the Lester Public Library, but shall apply inside those municipal buildings
- (3) These prohibitions shall not apply to service animals providing assistance to disabled persons, as defined by provisions of the Americans with Disabilities Act and other applicable Federal or State law.
- (4) These prohibitions shall not apply to animals participating in events held on municipal property, including within municipal buildings, with the permission of the City.

- (5) These prohibitions shall not apply to animals participating in events held on school grounds with the permission of the School District.
- (6) These prohibitions shall not apply to animals used by the Police Department or other city departments, or their agents, in performance of their official duties, including by way of example but not limitation the use of dogs for tracking, search and rescue and horses for mounted patrol.
- (7) These provisions shall not apply to the extent that exceptions are provided:
 - (a) Under provisions of Title 6, Chapter 5, Section 7 of City Ordinances, "Restrictions on Keeping Dogs, Cats and Other Animals;" and
 - (b) Under provisions of Title 7, Chapter 1 of City Ordinances, "Parks."

(c) **ADDITIONAL PROHIBITIONS OR EXCEPTIONS**

The City Council may, by resolution, enact prohibitions or exceptions in addition to those identified above, on a temporary basis for a period not exceeding thirty (30) days.

SECTION 2. This ordinance shall take effect and be in force from and after its date of passage and publication of same.

Dated this 17th day of July, 2017.

Kay L. Koach
President, City Council

Gregory E. Buckley
City Manager

Attest:

Kim M. Graves
City Clerk

Approved as to form and legality:

John M. Bruce
City Attorney

Sec. 6-5-9**Dogs and Cats Prohibited on Public Grounds and Cemeteries**

No dog or cat is permitted in any school ground, public playground, public park, beach area, other public grounds or cemetery within the City unless such dog or cat is entered in a contest sponsored by the Recreation Department. Every dog specially trained to lead blind persons shall be exempt from this section.

ORDINANCE

AN ORDINANCE to repeal the provision of Section 7-1-1 of the Municipal Code, entitled "General Park Regulations" generally prohibiting animals in City parks, to create a new Section 7-1-2 titled "Animals in Parks," and to re-number current Section 7-1-2 and subsequent sections accordingly.

The Council of the City of Two Rivers ordains as follows:

SECTION 1. That Title 7 "Parks," Chapter 7 "Parks," Section 1, "General Park Regulations," is hereby amended to delete Section 7-1-1, paragraph (c), which provides that no person or persons shall "Allow a horse, dog, cat or other domesticated animal to be on any part of City-owned property or park," and to re-number subsequent paragraphs accordingly.

SECTION 2. That Title 7 "Parks," Chapter 7 "Parks," Section 1, "General Park Regulations," is hereby amended to delete Section 7-1-1, paragraph (f), Which currently reads "Dogs are allowed on recreational trails designated by the City Council by resolution, provided that they are kept on leashes of six feet or less in length, held by and in the control of their owners or other persons walking them with the permission of their owners, at all times," and to re-number subsequent paragraphs accordingly.

SECTION 3. That a new Section 7-1-2, entitled "Animals in Parks," is hereby adopted, to read as follows:

Sec 7-1-2 Animals in Parks

Dogs, cats and other animals are permitted in City parks and on City recreational trails and the City-owned land adjacent to such trails, subject to the following restrictions and exceptions:

(1) RESTRICTIONS.

Such animals shall either:

- (a) Be effectively controlled by the animal's owner or other responsible person accompanying said animal, through the use of a collar and a leash not exceeding 6 feet in length or;
- (b) Be effectively contained within a cage or kennel, and under the control of a responsible person who is at all times within 6 feet of said cage or kennel.

(2) EXCEPTIONS

- (a) Neshotah Beach.

Animals are prohibited at Neshotah Beach from May 1 through September 30 of each year. This prohibition shall apply to the area at Neshotah Park lying between the lakeward edge of the beach parking lots and Lake Michigan, inclusive of the concrete beachwalk,. Said area shall extend from the north pavement edge of the northernmost beach parking lot, as extended to Lake Michigan, to the south pavement edge of the southernmost parking lot, as similarly extended.

Provided, however, that animals shall be allowed in a 20 foot wide corridor along the far south end of said area, providing a connection between the southernmost parking lot and the beach, for access to the City-owned beach located to the south of said corridor. The south boundary of said corridor shall be the south edge of pavement of the southernmost beach parking lot, as extended to Lake Michigan. Said corridor shall be identified with signs to be installed by the City's Parks Department.

This prohibition shall not apply to service animals providing assistance to disabled persons, as defined by provisions of the Americans With Disabilities Act and other applicable Federal or State law.

- (b) Dog Parks and Memorial Drive Beaches. The requirement that animals be effectively controlled with a leash or in a cage or kennel shall not apply to dogs at any designated dog parks, nor shall it apply to dogs along the publicly owned Lake Michigan beaches along Mariners Trail/Memorial Drive. These are permitted "off leash" areas for dogs who are accompanied by their owner or other responsible person, and effectively under the control of such person.
- (3) The restrictions and prohibitions contained in this Section may be waived by the Parks and Recreation Director or City Manager for animals participating in events organized by the City or participating in events organized by others and held on City park properties with the permission of the City.
- (4) The restrictions and prohibitions contained in this Section shall not apply to animals used by the City's police department or other departments in the performance of their official duties, including by way of example but not limitation the use of dogs for tracking, search and rescue and horses for mounted patrol..

(5) The City Council may, by resolution, enact additional, temporary restrictions or prohibitions applicable to animals in City parks.

(6) PENALTY

Penalties for violations of this section shall be as provided in Section 6-5-7 of City Ordinances.

SECTION 4. Current Section 7-1-2, entitled "Speed Limits in Parks," is hereby re-numbered as Section 7-1-3, and subsequent sections are re-numbered accordingly.

SECTION 5. This ordinance shall take effect and be in force from and after its date of passage and publication of same.

Dated this 17th day of July, 2017.

Kay L. Koach
President, City Council

Gregory E. Buckley
City Manager

Attest:

Kim M. Graves
City Clerk

Approved as to form and legality:

John M. Bruce
City Attorney

Sec. 7-1-1 **General Park Regulations**

No person or persons shall do any of the following prohibited acts within the limits of any park in the City of Two Rivers:

- (a) Operate an un-licensed or licensed motorized vehicle outside of areas specifically designated as parking areas or areas where the operation of such vehicles is specifically permitted.
- (b) Operate a snowmobile except in designated areas.
- (c) Allow a horse, dog, cat or other domesticated animal to be on any part of City owned property or park.
- (d) Place or leave any rubbish, litter, garbage, refuse or debris of any nature within a park except within designated receptacles provided. No person or persons shall throw or deposit any type of debris or waste material on or along any park roadway or park area.
- (e) Interfere with, break down, deface or remove, or cause to be interfered with, broken down, defaced or removed, any sign, guard, protection barrier or barricade placed in any public park in the City. Neither shall they remove or damage any equipment. Any damage to park facilities will be considered vandalism.
- (f) Dogs are allowed on recreational trails designated by the City Council by resolution, provided that they are kept on leashes of six feet or less in length, held by and in the control of their owners or other persons walking them with the permission of their owners, at all times.
- (g) This ordinance shall not apply to special purpose vehicles, all-terrain vehicles or horse mounted units used by the Police Department in law enforcement

Sec. 7-1-2 **Speed Limits in Parks**

No person shall operate a motor vehicle in any of the public parks at a speed greater than fifteen (15) miles per hour.

Sec. 7-1-3 **Reckless Driving in Parks Prohibited**

No person shall operate a motor vehicle in a reckless manner in any of the public parks in the City.

Sec. 7-1-4 **Parking in Parks**

No person shall park any motor vehicle in any park in the City except in designated parking areas nor shall any person allow any motor vehicle, trailer, or construction equipment to allow remain parked within any City park during park closing hours, except by permission of the City Manager or his designee. The penalty for violation of this is provided for in Section 8-1-6(c).

Sec. 7-1-5 **Park Closing Hours**

No person shall be within the Picnic Hill Park between 10:00 PM and 6:00 AM. No person shall be within any other City parks between 11:00 PM and 6:00 AM. This Section shall not apply to persons traveling directly through any park on a City street, and further provided the hours set forth in the Section may be adjusted by the City Council, City Manager, or his designee, for special activities.

Sec. 7-1-6 **Refreshment Stands in Public Parks Prohibited**

It shall be unlawful for any person, without being previously authorized by the Parks & Recreation Director, to set up any refreshment or concession stand, or to sell any refreshments, balloons, toys or any articles whatsoever in and upon any park, playground, recreation area, bathing beach or athletic field owned or operated by the City of Two Rivers.

Sec. 7-1-7 **Public Address Systems in Parks**

It shall be unlawful for any person, without being previously authorized by the Parks & Recreation Director, to use any public address system or sound amplification devices in any public park.

Sec. 7-1-8**Radio Controlled Model Airplanes Prohibited in Parks**

No person shall fly a radio-controlled model airplane in any park in the City of Two Rivers except in areas specifically designated and posted for such purpose.

Sec. 7-1-9**Regulations of Piers and Docks**

- (a) No person shall in any manner take a bicycle, motor vehicle, or other vehicle on the North or South piers; nor on any pier or dock owned by the City; except that bicycles may be walked, not ridden, on these piers and docks, and non-motorized wheeled carts not larger than 3x3x3 feet to carry fishing gear shall be allowed.
- (b) No person shall swim, dive, or otherwise enter into the water from the North or South side piers, or adjacent seawalls or abutments, nor from the Harbor Dock seawall, nor from any other pier or dock owned by the City
- (c) No person shall, in any manner, fish within twenty (20) feet of a moored boat at the Harbor Dock seawall or about moored at any other mooring area designated by the City; this restriction shall not apply to the boat owner or his/her guests

Sec. 7-1-10**Possession of Glass Beverage Containers Prohibited**

No person shall bring into a public park in the City, or possess or dispose of while in a public park of the City, any beverage in a glass bottle or other glass container, or any glass beverage bottle or glass beverage container regardless of whether such bottle or container is empty or contains a beverage.