

ORDINANCE NO. 3827

AN ORDINANCE AMENDING PARTS OF CHAPTER 6, ARTICLE III OF THE CITY OF GRAND JUNCTION CODE OF ORDINANCES RELATING TO LICENSING AND IMPOUNDMENT OF DOGS, DOGS AT LARGE, CONTROL OF DOGS, DANGEROUS DOGS, A SURCHARGE ON FINES FOR THE PURPOSE OF FUNDING DOG PARK(S) AND CORRECTION OF SCRIVENERS' ERRORS AND AUTHORIZED THE PUBLICATION IN PAMPHLET FORM

RECITALS:

It is beneficial to the health, safety and welfare of the citizens of the community to substitute the word "vicious" with the word "dangerous" throughout Article III of Chapter 6 in order to add clarity and consistency;

It is also beneficial to allow for a three-year license to coincide with the three-year rabies vaccine;

It is desirable for Mesa County Animal Services to manage its resources by changing the minimum impound periods to concord with those set by the County and by state law;

Clarification of the availability and establishment of the defense of provocation to failure to control a dog is needed because the ordinance is not clear and judicial determinations have been inconsistent;

Clarification is also needed with respect to the "training" exception to the prohibition of dogs at large;

Dog owners that lawfully use and benefit from a dog park should expect some of the costs associated with the establishment and maintenance of dog park(s) to be borne by dog owners who violate the leash law. Therefore establishment of a surcharge on dog at large violations may help achieve this goal;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:

Chapter 6, Article III of the Code of Ordinances, City of Grand Junction, Colorado, is hereby amended to read as follows. (Additions are shown in underline; deletions are shown by strikethrough.)

Sec. 6-57. Definitions

At large means to be off the premises of the owner or custodian and not under direct physical control of the owner or custodian by means of a leash or other mechanism of control. This requirement does not apply to any dog while actually working livestock, locating or retrieving wild game in a lawful season for a licensed hunter, assisting law enforcement officers, or participating in an organized obedience training class, dog show or an obedience trial. Dogs tethered to a stationary object within range of a public street, sidewalk, or right-of-way shall be deemed at large if the

owner or custodian of such dog is not immediately present. This general definition of “at large” shall be superseded by the following if the animal is within the following geographic areas:

(1) Downtown Grand Junction: defined as the area bounded on the east by 12th Street and on the west by First Street; and on the north by the north side of the pavement of Grand Avenue, and on the south by the south side of the pavement of Colorado Avenue.

(2) The North Avenue corridor: One-half block north and south of North Avenue from First Street on the west to 29 Road on the east.

In these areas, “at large” is defined as an animal off the premises of the owner or custodian and not under the direct physical control by means of a leash.

Bodily injury means any physical pain, illness, impairment of physical or mental condition, or physical injury wherein the skin is broken, bleeding occurs, bruising occurs, or bone, tissue, or muscle damage is suffered or emergency medical treatment becomes reasonably necessary for a person or animal.

Provocation means teasing, threatening, striking, or attacking an animal or its owner in the animal’s presence, by either a person or another animal, which is objectively unreasonable to an ordinary person. “Provocation” shall not include the lawful presence of an individual or animal in close proximity to but not within or upon property of another, or where a dog is tied, kept, kenneled or harbored.

Serious bodily injury means bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of permanent disfigurement, or a substantial risk of protracted loss or impairment of the function of any part or organ of the body or breaks or fractures.

Dangerous dog means a dog which:

- (1) Causes serious bodily injury to a person;
- (2) Causes bodily injury to a person or animal on two or more occasions;
- (3) Is infected with rabies;
- (4) Is of wild extraction and that on any occasion causes bodily injury to a person or animal by biting, whether or not provoked, or is known to be infected with rabies;
- (5) Causes bodily injury to a person or animal and the bodily injury occurs off the dog owner’s premises;
- (6) Is at large and exhibits repeated or continuous aggressive behavior;
- (7) Has engaged in a dogfighting contest with the owner’s knowledge; or
- (8) Has been specifically found to be dangerous by any court or jury;

provided, however, that a dog which attacks, terrorizes or causes any bodily injury to a person or animal in immediate response to objectively unreasonable provocation shall not be found to be dangerous if the dog owner establishes such facts as an affirmative defense to a charge for violation of section 6-60 or to the satisfaction of the investigating animal control officer. Any dog which is found to be dangerous as defined by subsections (1), (2), (3), or (4) hereof may be destroyed in accordance with section 6-64(c)(1).

All other provisions of the Sec. 6-57 shall remain in full force and effect.

Sec. 6-58. Licensing and vaccination.

- (a) *Vaccination Required.* No person shall own, keep or harbor in the City any dog or cat over four months of age unless such dog or cat is vaccinated against rabies. All dogs and cats vaccinated at four months of age or older shall be revaccinated thereafter in accordance with the recommendation in the "Compendium of Animal Rabies Control" as promulgated by the National Association of State Public Health Veterinarians. After vaccinating a cat or dog for rabies, the veterinarian shall give the owner written certification of such vaccination. Any dog or cat owner who moves into the City and owns any dog or cat four months of age or older shall comply with this article within thirty days afterward. If any dog or cat has bitten any person or animal within the last ten days, the owner of said dog or cat shall report that fact to the vaccinating veterinarian and to the animal control facility, and no rabies vaccine shall be administered to that dog or cat until after the ten-day observation period.
- (b) *Certificate of vaccination and license.* After vaccinating a cat for rabies, the veterinarian shall give the owner written certification of such vaccination. After vaccinating a dog for rabies, the veterinarian shall take the dog owner's payment for a county license and give the dog owner a county license certificate or dog tag. Dogs must have a current license. A dog owner may choose to buy a county dog license certificate and tag from the animal control center rather than a veterinarian. If so, the veterinarian shall give the owner written certification of the dog's current vaccination, which the owner shall show to an animal control officer when purchasing a county license and tag. The term of any license issued cannot exceed the date the rabies vaccination expires. A dog owner may choose to license annually or may choose to purchase a license that expires concurrently with the rabies vaccination. Fees for licenses shall be established by resolution of the City Council and on file in the City Clerk's office. Certificates of license shall contain the following information:
- (1) The name, street address, and telephone number of the owner of the vaccinated dog;
 - (2) The veterinarian's name, rabies tag number and expiration date;

- (3) The breed, age, color and sex of the dog; and
- (4) The county license number, license year or term of issue, license fee, and licensing agent.

Vaccination of dogs of wild extraction is required, as is the above information required for licensure of a dog of wild extraction.

- (f) *Harboring unvaccinated dogs or cats.* No person shall own or harbor any dog or cat which has not been vaccinated against rabies or whose most recent rabies vaccination has expired. This subsection shall apply to dogs of wild extraction.

All other provisions in Section 6-58 shall remain in full force and effect

Section 6-59. Dogs running at large.

(a) *Confinement required.* No dog owner, or any person who harbors, keeps or is custodian of a dog, shall fail to physically, mechanically or electronically confine the dog. Such confinement shall ensure that the dog cannot leave the premises or be at large. No dog owner, or any person who harbors, keeps or is custodian of the dog, shall fail to prevent the dog from being or running at large. any dog off its owner's premises shall be under leash control by its owner.

(b) *Dogs in common and public areas.* No dog owner, or any person who harbors a dog, shall fail to prevent his dog from running at large in the yard of any multiple occupancy building which is occupied by other persons; or in the common areas of mobile home complexes, apartments, or condominium developments; or in open space areas of subdivisions; or in public or county parks or fairgrounds, unless permission is posted by public authorities allowing dogs at large.

(c) *Confinement during estrus.* Any unsprayed female dog in the state of estrus (heat) shall be confined during estrus in a house, building or secured enclosure constructed so that no other dog may gain access to the confined animal. Owners or keepers who do not comply with this subsection may be ordered by an animal control officer to remove the dog to a boarding kennel, veterinary hospital or the animal control center or be served with a penalty assessment notice. All expenses incurred as a result of such confinement shall be paid by the owner. Failure to comply with the removal order of an animal control officer shall be a violation of this article and any unsprayed female dog in estrus may be summarily impounded in the event of noncompliance with such a removal order.

(d) *Evidence of running at large.* It shall be prima facie evidence that a dog is running at large if the dog is out of its owner's, harborer's or keeper's sight, or if the dog goes upon public or private property without the property owner's manager's or tenant's consent.

All provisions of Section 6-59 shall remain in full force and effect.

Sec. 6-60. Dangerous dogs.

(a) *Prohibited.* No person shall own or harbor a dangerous dog within the City, except as provided in this article. Such dog shall be impounded as a public nuisance pursuant to the procedures set forth in section 6-63, and may be subject to disposition as provided by section 6-64(c).

(b) *Control of dogs.* No owner of a dog shall fail to prevent it from causing serious bodily injury to any person or animal, including pets, domestic livestock, fowl or wildlife. No owner of a dog shall fail to prevent it from causing bodily injury to or biting, without provocation, any person or animal, including pets, domestic livestock, fowl or wildlife. Provocation is not a defense to this section 6-57 where the response of the dog is not in proportion to the claimed act of provocation.

All other provisions of Section 6-60 shall remain in full force and effect.

Sec. 6-63. Seizure and impoundment.

(d) *Length of impoundment.*

- (1) Minimum period. Any animal impounded at Animal Control which is not reclaimed by the owner shall be held by Animal Control for a minimum of five (5) days after acquisition by Animal Control, before it may become available for adoption or otherwise disposed of at the discretion of Animal Control, except that an Animal Control supervisor may determine that an animal without identification, including but not limited to a microchip or collar, may be disposed of in three (3) days if such supervisor determines the shelter has insufficient resources for such animal or determines that such animal is dangerous. For purposes of this section, "days" means days during which the shelter is open to the public. If the owner does not properly claim and redeem the animal within this period of impoundment, the animal may be subject to disposition under Section 6-64.
- (3) Dangerous dog. A dangerous dog shall not be released from impoundment during the pendency of any criminal proceeding for violation of section 6-60(a). If no such action has been or will be commenced, such dog shall be disposed of pursuant to section 6-64.

All other provisions in Section 6-63 shall remain in full force and effect.

Sec. 6-64. Redemption from impoundment and disposition.

(c) *Disposition of dangerous dogs.*

- (1) A dog found to be dangerous by any court, as defined by subsections 6-57(1), (2), (3), or (4) of this article, shall be finally disposed of by humane euthanasia.

- (2) The owner of a dog which is found to be dangerous as defined by subsections 6-57(5), (6), (7) or (8) of this article shall be subject to any reasonable sentencing orders set by the court prior to or after redemption of the dog. Such orders and conditions may include but are not limited to delayed release of the dog, the posting of bond, construction of secure areas of confinement, restrictions on travel with the dog, neutering the dog, muzzling the dog, compensation of victims, restrictions on sale or transfer of the dog, destruction , and any other terms or conditions deemed necessary to protect the public or to abate a public nuisance. Such order and condition shall require payment of all fines and fees and expenses for seizure, impoundment and redemption, together with penalties and court costs, if any.

- (4) A dog found or declared not to be dangerous shall thereupon be forthwith returned to its owner, subject to payment of redemption fees, licensing and veterinarian care, but excluding liability for boarding expenses.

Section 6-65. Enforcement.

- (f) *Search and seizure of dogs.* An animal control officer shall have the right to enter upon private property when necessary to seize a dangerous dog, or a dog that has been running at large, when in reasonable pursuit of such dogs. Authorized entry upon such property shall not include entry into a residence or any structure that confines the dog except with authorization of the property owner. In the event of a property owner’s refusal to allow entry upon property or release of the dog and upon presentation of motion and an affidavit establishing probable cause that the dog is a public nuisance as defined in this article, a court may issue an ex parte order requiring the owner to immediately surrender the dog to an animal control officer. Noncompliance with such order shall be grounds for proceedings to establish contempt of court. The court is also authorized to issue an ex parte warrant for search and seizure of a public nuisance dog or abandoned, abused or neglected animals in order to preserve evidence or to protect the public safety and welfare. An animal control office seizing a public nuisance dog may impound the dog, release the dog in lieu of impoundment and/or issue a penalty assessment notice or a summons and complaint to the dog owner, unless otherwise required by court order or this article.

All other provisions of Section 6-65 shall remain in full force and effect.

Section 6-68. Penalty assessment; fine schedule.

If the penalty assessment procedure is used by the animal control officer or any arresting law enforcement officer, the following fine schedule shall be applied for violations of any section of this article which are committed or repeated by the same person within two years from the date of any prior offense:

First offense (up to)	\$ 50.00
Second offense (up to)	\$100.00

Third offense (up to)	\$250.00
Fourth and subsequent offenses (up to)	\$500.00

Penalties for violation of Section 6-59, dogs running at large, shall include a surcharge of \$25.00 payable to the City of Grand Junction Parks and Recreation Department for the establishment and maintenance of dog park(s). Fines shall not be suspended or waived in order to offset the surcharge.

All other provisions of Section 6-68 shall remain in full force and effect.

ALL OTHER PROVISIONS OF CHAPTER 6 SHALL REMAIN IN FULL FORCE AND EFFECT.

PASSED for first reading and ordered published in pamphlet form by the City Council of the City of Grand Junction, Colorado this 21st day of September, 2005.

PASSED AND ADOPTED on second reading and ordered published in pamphlet form by the City Council of the City of Grand Junction, Colorado this 5th day of October, 2005.

/s/ Bruce Hill

Bruce Hill

President of the Council

Attest:

/s/ Stephanie Tuin

Stephanie Tuin

City Clerk