



Grateful Dogs of Juneau

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Bruce Botelho
Mayor
City and Borough of Juneau
Juneau, Alaska

SUBJECT: Dog Control Ordinance Amendments – Ordinance 2009-12(b)

Grateful Dogs of Juneau has concerns about some of the provisions contained in the proposed dog ordinance (Ordinance 2009-12(b)) that is currently before the Assembly.

Our concerns with the proposed ordinance are the following:

- ONE: the current definition of “competent voice control” under 08.05.010 should be retained; the definition in the proposed ordinance should be deleted in favor of the current definition in law;
- TWO: ambiguous expansion of authority of animal control officers to enforce CBJ Parks & Recreation dog regulations;
- THREE: ambiguous description of where dogs must be on-leash on the Airport Dike Trail;
- FOUR: elimination of the power to impound at-large animals other than dogs and livestock.

DISCUSSION

ONE: “Competent Voice Control”

The new definition for "competent voice control" as presented in the proposed ordinance states:

Competent voice control means when all the following are met:

- (1) The person exhibiting voice control has the dog under verbal control and within sight at all times regardless of distractions (such as wildlife, traffic, other animals, food, other people or noise).
- (2) The dog under voice control does not bark at, jump on, act aggressively toward, or advance on people or other domestic animals.
- (3) The dog under voice control will consistently come to its handler immediately upon command.

The first two paragraphs of the definition have nothing to do with the handler's ability to control his/her dog.

Paragraph (1) focuses on whether the handler can see his/her dog despite distractions. If you avert your eyes from your dog to look at a bird, the dog has to be on a leash regardless of whether your dog is following your verbal commands. Similarly, if you take your eyes off your dog to watch traffic so that you do not get hit by a jogger, bicycle, skateboard, or truck then your dog must be on leash, even though your dog is sitting at your side.

Paragraph (2) focuses on the conduct of the dog, not on the ability of the handler to control the dog. Barking and approaching a person or other animal, and similar behaviors are not inherently bad acts, so the mere performance of these behaviors does not warrant an on-leash requirement. None of these behaviors inherently suggests that a dog is not under competent voice control. Undesirable barking, jumping, menacing, and frightening of people are prohibited under CBJ Ordinance 08.45.010. These undesirable behaviors are prohibited regardless of whether your dog is on leash or not. Putting a dog on leash does not make these behaviors acceptable.

The current definition of “competent voice control” found in the Animal Control Code (CBJ Ordinance 08.05.010) is probably the most reasonable definition for something that can be so hard to define.

Competent voice control means when all the following are met:

- (1) The person exhibiting the voice control is present with the animal and monitors all of its activities;
- (2) The person exhibiting the voice control is capable of directing all of the animal's movements and activities by voice commands; and
- (3) The animal under voice control follows all of the vocal commands quickly and accurately.

This definition has the virtue of actually addressing the factors that constitute competent control of a dog.

Grateful Dogs finds that the concepts contained in the proposed definition of “competent voice control” are not appropriate and not related to what actually constitutes competent voice control. We cannot support the definition of “competent voice control” contained in the proposed ordinance.

Therefore, Grateful Dogs respectfully requests that the definition of “competent voice control” currently in effect be retained and that the definition contained in the proposed ordinance be deleted and replaced with the current definition found in CBJ 08.05.010.

TWO: Enforcement of CBJ Parks & Recreation dog regulations by animal control officers

Sections 08.40.020 (leash law areas) and 08.40.030 (dog prohibition areas) of the proposed ordinance contain amendments that would bring enforcement of CBJ Parks and Recreation dog regulations within the scope of authority of animal control officers.

In both 08.40.020 and 08.40.030, the proposed ordinance adds the following language: “Those locations set forth in regulations issued by CBJ Parks and Recreation Department pursuant to CBJ 01.60.”

08.40.020 Leash law areas. Except as provided in section 08.30.050, *or unless the animal is participating in an officially organized training or activity which requires it to be unleashed*, in the following areas, the keeper of a dog must keep the dog restrained on a leash no longer than ten feet, held by a person capable of controlling the animal, *in the following areas*:

(a) Reserved. *Those locations set forth in regulations issued by the CBJ Parks and Recreation Department pursuant to CBJ 01.60.*

(b) – (f) [Omitted for clarity]

08.40.030 Dog prohibition areas. Dogs are prohibited in the following areas:

(a) Reserved. *Those locations set forth in regulations issued by the CBJ Parks and Recreation Department pursuant to CBJ 01.60.*

(b) – (c) [Omitted for clarity]

The Parks and Recreation regulations mention almost all of the areas under the jurisdiction of the department. Some of those areas are on-leash areas, some are competent voice control areas, and still others are dog prohibited areas. Our concern with this drafting style is that under the proposed amendment to 08.40.020 all of the areas listed in the regulations are to be treated as leash law areas and, similarly, under the proposed amendment to 08.40.030 all of these same areas are to be treated as dog prohibition areas. The proposed amendments to 08.40.020 and 08.40.030 are manifestly unclear as to which park and recreation areas will be treated as leash law areas and which will be treated as dog prohibited areas. Grateful Dogs believes that dog ordinances should be clearly written and easily understood on their face without ambiguities and obscure standards that can bewilder the average dog owner in Juneau.

It is our understanding that these changes are being made in order to clearly authorize animal control officers to enforce Parks and Recreation Department dog regulations. We think that this goal can be achieved in a simpler and more straightforward manner by amending CBJ 08.10.020 (animal control officers; scope of duties) to expressly authorize animal control officers to enforce the relevant CBJ parks and recreation ordinance and regulations. The amendment would read:

08.10.020 Animal control officers; scope of duties. All animal control officers shall have the following duties:

- (a) - (b) [Omitted for clarity]
- (c) To issue or cause to be issued a citation or a warning to any person violating any provision of this title *or of CBJ 67.01.090(h) and the regulations issued pursuant to CBJ 01.06 to implement CBJ 67.01.090(h)*;
- (d) – (e) [Omitted for clarity]

Therefore, Grateful Dogs recommends that the ambiguous language added to 08.40.020(a) and 08.40.030(a) by the proposed ordinance be deleted from the ordinance and that CBJ 08.10.020(c) be amended to clearly authorize animal control officers to enforce park and recreation dog ordinances, as suggested above.

THREE: On-leash area on the Airport Dike Trail

At the present time, there is a dispute between dog handlers and animal control officers as to whether an animal control officer can issue warnings and citations for off-leash dogs on the Airport Dike Trail. Animal control officers have issued citations for off-leash dogs on the Airport Dike Trail in the last few weeks under the alleged authority of CBJ 08.40.020. The relevant provision of the animal control ordinance states:

08.40.020 Leash law areas. Except as provided in section 08.30.050, in the following areas, the keeper of a dog must keep the dog restrained on a leash no longer than ten feet, held by a person capable of controlling the animal, unless the animal is participating in an officially organized activity which requires it to be unleashed:

- (a) - (d) [Omitted for clarity]
- (e) The premises of the Juneau International Airport as provided in section 05.05.090;
- (f) [Omitted for clarity]

However, the section 05.05.090 referenced in (e) does not exist. Because section 05.05.090 does not provide for off-leash areas on the airport or provide a description of an area of the airport where an on-leash requirement may apply, THE ONLY CONCLUSION IS THAT THERE ARE NO PREMISES OF THE AIRPORT THAT IS A LEASH LAW AREA under the animal control code (CBJ 08).

The director of animal control has stated that animal control officers are relying upon advice of the CBJ Law Department that the reference to CBJ 05.05.090 is a mistake and that the reference should be CBJ 05.05.100. Even if the reference to CBJ 05.05.090 was a drafting mistake made in 1995 when the airport board was created, there is no basis on which impute a different section reference under CBJ 08.40.020 until the assembly takes action and amends the ordinance by law.

To issue citations for off-leash dogs on the airport dike trail on the basis of an imputed reference to CBJ 05.05.100, is manifestly unfair to the public (dog owners and non-dog owners, alike), violates the duty of animal control “to enforce the provisions of (CBJ 08) in the manner provided by law”, and, of course, is a violation of due process.

To resolve this issue, the proposed ordinance amends CBJ 08.40.020(e) to replace the reference to the non-existent CBJ 05.05.090 with a reference to CBJ 05.05.100.

08.40.020 Leash law areas. Except as provided in section 08.30.050, in the following areas, the keeper of a dog must keep the dog restrained on a leash no longer than ten feet, held by a person capable of controlling the animal, unless the animal is participating in an officially organized activity which requires it to be unleashed:

- (a) - (d) [Omitted for clarity]
- (e) The premises of the Juneau International Airport as provided in section ~~05.05.090~~ 05.05.100;
- (f) [Omitted for clarity]

Unfortunately, CBJ 05.05.100 does not identify any premises of the Juneau International Airport where an on-leash requirement is in effect. Please consult CBJ 05.05.100. CBJ 05.05.100 is a 2-3 page ordinance setting out a wide range of activities that are permitted or limited on the airport. Subsection (o) of CBJ 05.05.100 does relate to dogs at the airport but does not describe any premises of the airport where an on-leash requirement exists.

CBJ 05.05.100(o) states:

- (o) *Animals.* No person shall enter the airport with an animal with the following exceptions:
 - (1) All certified service animals trained to assist any physically disabled person may be permitted for appropriate purposes;
 - (2) Animals may be permitted in the terminal building if they are properly confined; and
 - (3) Animals may be permitted in other areas of the airport if they are restrained by leash or confined in such manner as to be completely under control.

The language of subsection (o) does not say that dogs must be on leash at all times and places. Arguably, a dog under competent voice control would be a dog “completely under control” and thus would be allowed on the Airport Dike Trail.

The solution to this issue is not obvious. Merely substituting the reference to CBJ 05.05.100 in lieu of CBJ 05.05.090 will not provide a clear answer to where on airport premises dogs must be on-leash and will promote continued enforcement problems on the Airport Dike Trail.

The most straight forward solution to the problem is to specifically designate the Airport Dike Trail as a competent voice control trail. The remainder of the airport property would not be an issue because it is behind a security fence and subject to restricted access. In spite of the signs posted on the dike trail by the airport management, the Airport Dike Trail has for all intents and purposes been a competent voice control/off-leash trail for as long as I have been in Juneau (since 1975). If you were to poll Juneau residents, I would expect that most of them think that the Airport Dike Trail is already an off-leash trail.

Grateful Dogs requests that, at a minimum, CBJ 08.40.020(e) be amended to clearly state where on premises of the Juneau International Airport dogs must be on-leash. The Assembly would be providing a beneficial public service by eliminating the ambiguity that exists under the current version of CBJ 08.40.020(e) and under the amendment of CBJ 08.40.020(e) that is contained in the proposed ordinance currently before the Assembly.

Furthermore, Grateful Dogs respectfully requests that the Airport Dike Trail unambiguously be designated as an “on-leash or under competent voice control” trail.

FOUR: Impoundment of certain at-large animals

CBJ 08.20.010(a) of the proposed ordinance amends the power of an animal control officer to impound animals running at large. Under the proposed amendment only dogs and livestock could be impounded. This amendment eliminates the ability of animal control officers to impound cats, ferrets, rabbits, parrots, snakes, and other animals frequently kept as pets when those animals are found running at large. It is important that animal control officers be able to impound these animals for their own well-being and in order to return the animals to their owners if possible.

Grateful Dogs recommends that the proposed ordinance be amended to provide that animal control officer be able to impound pet animals found running at large.

ADDITIONAL RECOMMENDATIONS

Except as discussed above, for the most part, Grateful Dogs of Juneau supports the technical and clean up amendments that the proposed ordinance makes to licensing requirements, impoundment, rabies control, dangerous animals, animal care, objectionable animals, and fees and penalties. We would recommend that those amendments be adopted.

Grateful Dogs of Juneau has no position on, and makes no recommendation in regard to, the elimination of references to the Gastineau Humane Society from the Animal Control Code (CBJ 08). We would only request that, when selecting a contractor to provide animal control services, the City and Borough of Juneau accord more importance to ability, expertise, professionalism, and adequate and humane care and treatment of animals than to cost considerations.

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In conclusion, Grateful Dogs of Juneau would like to say that responsible dog owners in the community enjoy the opportunities available to them and their dogs in Juneau. Likewise, responsible dog owners seek to be respected and recognized for the efforts that they make to be responsible citizens and to contribute to the sense of community that makes Juneau the fine capital city that it is. As just one of the many user groups of public lands and facilities, responsible dog owners are cognizant that we must share those lands and facilities with other users and must be good neighbors (and of course, we expect other user groups to reciprocate). For our part, being a good neighbor entails, at a minimum, keeping our dogs under control and cleaning up after our dogs. Juneau is a dog-friendly, and not just a dog-tolerant, community. Responsible dog owners are committed to keeping Juneau as a dog-friendly city.

Grateful Dogs remains willing and available to assist the Assembly and the CBJ administration to develop and implement dog-related ordinances and regulations.

Thank you for your consideration.

Sincerely,

/s/

George Utermohle

President

Grateful Dogs of Juneau, Inc.

cc: CBJ Assembly Members