

MUNICIPALITY OF ANCHORAGE ANIMAL CONTROL ADVISORY BOARD OPINION ON DRAFT AO 2024-XX ANIMAL NEGLECT

Synopsis:

The Animal Control Advisory Board (Board) disagrees with the proposed changes to Anchorage Municipal Code (AMC) 8.55.015 in the attached draft AO 2024-XX Animal Neglect. The Board agrees changes/additions should be made to Municipal code. However, rather than having strictly defined temperatures and finite rules, the Board advises that code should instead continue to leave room for officer discretion when investigating cases based on the totality of the circumstances. The Board presents a counter proposal, attached as Draft AO 2024-XX Animal Neglect—Animal Control Advisory Board.

Opinions:

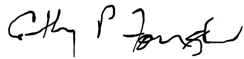
1. A (4) – Section specifically addresses a “dog” or “cat” however there are a multitude of other animals that can be affected by extreme temperatures so language should reflect all “animals” as defined in AMC 8.55.005
2. A (4) – Setting a timeline for animals at one hour is problematic from an enforcement standpoint. This would require a peace officer to do one of the following: maintain visual on the vehicle for an hour to ensure that the timeline is met or obtain continuous video surveillance to ensure the timeline is met. Testimony from a complaining witness that advises they have had constant observation of the vehicle may not be sufficient. An officer leaving and returning to the scene opens potential defense arguments. This time requirement would unduly burden an investigating officer who could otherwise make a determination based on the observations made during the time of contact.
3. A (4) – Temperatures defined in the proposed changes are problematic due to the many varying breeds and types of animals. For instance, a husky inside a vehicle at lower temperatures may fair just fine whereas a short hair dog would not and vise versa in warmer months. Other factors such as shade, airflow, access to water, cooling or heating equipment are all examples of what officers should factor into a decision as to the safety of an animal in a vehicle. Finite temperature ranges remove the officer’s ability to make a reasonable decision based on the information they are considering based on a multitude of factors. Instead, the Board agrees that a more structured guideline in code is appropriate to assist officers with this decision-making process.
4. A (4)a – Other devices can be utilized other than a specifically “running” vehicle such as standalone temperature control devices. These can meet the criteria of the spirit of the proposed changes but by definition would not meet the letter.
5. A (4)a – Anchorage Police Department (APD) officers do not have access to thermometer devices to obtain temperature readings inside a car as Animal Control Officers do. They will therefore be unable to determine the specific inside temperature of a vehicle in order to ascertain whether or not it is within the given parameters. This would make enforcement of this portion of code impossible without the direct involvement of Animal Control Officers or additional funding and training to APD for thermometer equipment.
6. A (4)b—An exemption for mushing dogs could be problematic for two reasons. First, it may be difficult for peace officers to identify a mushing vehicle because many mushers are using

vehicles other than the more traditional trucks with dog boxes. Second, this exemption may lead to mushing dogs being left in distress when, under the current code, an officer would normally seize the dogs.

7. General – The Board is concerned regarding how these changes would be communicated to the public. Many people travel from out of state for competitions or just to visit the Municipality. Without a direct/specific marketing campaign its likely this would lead to unintended criminal violations.
8. General—The Board cautions that a finite temperature range could lead to over/under prosecution that is not consistent with the spirit of the order which is intended to be for the wellbeing of the animal. For instance, over seizure of cold weather acclimated animals whom under the proposed changes would be seized due to low temperature which in turn would lead to overcrowding the Animal Control facility. The reverse could apply for the warmer months. On the other hand, the opposite of this could apply. An animal who is showing signs of distress at 74 degrees could be left to die based on the language of the proposed changes rather than saved based on the independent observations of the investigating officer. This would inadvertently lead to the reverse of the intended purpose of the proposed changes.

Proposed Changes:

1. A (3)c – The Board’s proposed changes highlight the skills of our trained animal care investigators and law enforcement officers to continue to make sound reasonable decisions based on the totality of the circumstances they are presented.
 - a. Specific guidelines are offered as considerations to assist in the officer’s decision-making process to ensure a more standardized approach to the investigative process.
 - b. The number of reported vehicle related animal deaths, though always tragic, is minimal showing that the current language and practice is still appropriate, and that the discretion allotted to the officers currently, is correctly altering behavior as intended.



Chair, Animal Control Advisory Board

Attachments: Considerations from Anchorage Animal Care and Control Veterinarian
Draft AO 2024-XX Animal Neglect
Draft AO 2024-XX Animal Neglect—Animal Control Advisory Board

Considerations from Anchorage Animal Care and Control Veterinarian, Dr. Carol Hedges, DVM

1. Age. In addition to breed, the age of the animal is also very important. Older dogs cannot release heat as efficiently through panting as younger dogs. As a dog ages, the lungs get more stiff, and cannot rid heat as well as before. A 2 year old lab may be fine at 75 degrees, but a 13 year old lab could die (especially if the humidity is high).
2. Acclimation. This is very important. For example, most sled dogs are acclimated to very cold temperatures. On the Iditarod trail, 10 degrees is starting to get a little too warm to run. At 20 degrees, many mushers will only run at night to prevent heat stroke in the dogs. The Iditarod dogs perform best when they are running between -10F and 0F. When they are resting, if they have straw (which most sled dog trucks and kennels do), 0F is nothing to them. The mushers parked at the Lakefront Hotel or at Rondy most likely will not turn on their heaters at 10 degrees. -10 *maybe*, but probably not then either. The risk of overheating is just too great.
3. When there are rigid guidelines in place, we run the risk of strict interpretation (letter of the law vs spirit of the law). If we have a rookie Anchorage Police Department officer or Animal Control Officer who responds to a call, they may be afraid to make a decision outside of what is stated in the code. Or they are just not familiar enough with signs of distress. They may be worried about an animal, but if it hasn't reached the required temperature or time yet, they may be hesitant to pull the animal. Additionally, there are members of the public who are not a well versed about animals in vehicles and the dangers, especially in summertime. If code has definitive temperatures and times, they may use the excuse that it is only dangerous in the temps and times code stated. If their malamute dies at 65 degrees in 30 minutes, and code stated 75 degrees and 1 hour, they could use the code against the Municipality if we pursue charges.

Submitted by: Assembly Chair Constant
Prepared by: Assembly Counsel's Office
For reading:

ANCHORAGE, ALASKA
AO No. 2024-_____

AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE SECTION 8.55.015 TO EXPAND PROTECTIONS FOR ANIMALS.

WHEREAS,

WHEREAS, ; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 8.55.015 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

8.55.015 Animal neglect.

- A. It is unlawful for any person, with criminal negligence, to:
 - 1. Maintain an animal in an inhumane manner, including failure to provide adequate food, water, housing and care; or
 - 2. Keep an animal on vacant property or in an unoccupied structure, unless the animal is cared for in a humane manner; or
 - 3. Have an animal within, on or attached to a motor vehicle under conditions that may endanger the health, safety or welfare of the animal, including but not limited to insufficient control or extreme temperature; or.
 - a. A PEACE OFFICER IS AUTHORIZED TO REMOVE AN ANIMAL FROM A MOTOR VEHICLE AT ANY LOCATION WHEN THE OFFICER REASONABLY BELIEVES THERE IS A VIOLATION OF THIS SECTION. ANY ANIMAL SO REMOVED SHALL BE DELIVERED TO THE ANIMAL CARE AND CONTROL CENTER AFTER THE REMOVING OFFICER LEAVES WRITTEN NOTICE OF THE REMOVAL AND DELIVERY, INCLUDING THE OFFICER'S NAME, IN A CONSPICUOUS, SECURE LOCATION ON OR WITHIN THE VEHICLE.
 - b. NO PEACE OFFICER SHALL BE HELD CRIMINALLY OR CIVILLY LIABLE FOR ACTION TAKEN UNDER

THIS SUBSECTION.]

4. Leave a dog or cat unattended in a vehicle for period in excess of one hour when the outside temperature is at or warmer than 75 degrees Fahrenheit, or at or colder than 10 degrees Fahrenheit. The prohibitions of this subsection do not apply to:

a. A running vehicle with a working air-conditioning or heating system, as applicable to outside temperature, that is actively being used to maintain the internal temperate of the vehicle within the permitted range outlined; or

b. Dogs to be harnessed and pull sleds, carts, vehicles with humans and/or cargo for the sport of mushing.

B. A peace officer is authorized to remove an animal from a motor vehicle at any location when the officer reasonably believes there is a violation of this section. Any animal so removed shall be delivered to the animal care and control center after the removing officer leaves written notice of the removal and delivery, including the officer's name, in a conspicuous, secure location on or within the vehicle.

1. No peace officer shall be held criminally or civilly liable for action taken under this subsection.

C. Violation of this section is a class A misdemeanor.

(AO No. 2014-42, § 8, 6-21-14)

Section 2. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2024.

Chair

ATTEST:

Municipal Clerk

Draft AO 2024-XX Animal Neglect—Animal Control Advisory Board

Submitted by:
Prepared by:
For reading:

**ANCHORAGE, ALASKA
AO No. 2024-XXX**

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 - b. No peace officer shall be held criminally or civilly liable for action taken under this subsection.

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c. A peace officer investigating a complaint shall consider the following: species, breed, type, age, and size of the animal; whether the animal presents signs of distress; whether the animal has reasonable access to heating and or cooling equipment; the availability and attentiveness of the owner or caregiver to the animal.

B. Violation of this section is a class A misdemeanor.

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Chair of the Assembly

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