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October 10, 2013

VIA EMAIL AND U.S. MAIL

David Corliss
City Manager
City Manager's Office
P.O. Box 708
Lawrence, KS 66044

Re: Bird species protected by state or federal law

Dear Mr. Corliss:

I write today to seek a change in city code that would allow licensed Master Falconers to own and possess federally protected raptors within the city limits of Lawrence, Kansas. An explanation for this request follows.

My father in law, Jack Stoddart, has been an active Master Falconer for over fifty years. In the coming weeks, and in furtherance of his retirement and family health needs, Mr. Stoddart intends to move from rural Jackson County to Lawrence. He holds a joint Federal and Kansas falconry permit which allows him to possess and hunt with raptors in Kansas. This permit can only be obtained after passing a written test and separately passing an inspection, conducted by the Kansas Department of Wildlife and Parks, of facilities intended for the keeping of birds of prey. Renewal inspections are conducted by KDWP at least every three years.

Current city code provides as follows:

3-103 OWNING CERTAIN ANIMALS PROHIBITED.

It shall be unlawful for any person(s) to own, within the city limits, any animal except as excluded in Section 3-104.

3-104 ANIMALS EXCLUDED FROM PROHIBITION.

(A) Animals excluded from prohibition are:

- (1) Domestic dogs, except those hybridized with wild canines.
- (2) Domestic cats, except those hybridized with wild felines.

- (3) Domesticated rodents.
- (4) Domesticated European ferrets.
- (5) Rabbits, except that no more than three (3) rabbits shall be permitted in a residentially-zoned district.
- (6) Birds, except for species protected by state or federal law and those species prohibited by Article 5 of this chapter.
- ...
- (14) Any animal in the ownership of a person designated and licensed as an animal rehabilitator by the Kansas Wildlife and Parks Department.

Because Peregrine Falcons are clearly "protected by state or federal law," it would appear that it is currently impermissible to own them within the city limits unless city law is somehow trumped by state or federal law.¹

By this letter, Mr. Stoddart seeks a change in city code which would allow him to own his Peregrine Falcon within the city limits of Lawrence after the construction and KDWP inspection of an appropriate facility for doing so. Although there may be many ways to accomplish this aim, perhaps the simplest and most direct way to do so would be by simple amendment to City Code § 3-104(A)(14), which could be amended by adding the bracketed language as follows: "(14) Any animal in the ownership of a person designated and licensed as an animal rehabilitator [or Master Falconer] by the Kansas Wildlife and Parks Department."

As the city evaluates Mr. Stoddart's request, it should be noted that the qualifications of a Master Falconer considerably exceed the qualifications of a person designated and licensed as an animal rehabilitator.² Mr. Stoddart has been referenced in and received publication credit in preeminent falconry publications for over forty years, and has more falconry publication credits to his name than perhaps any other person in Kansas. He has been active in the Peregrine Fund to restore the endangered Peregrine Falcon, and is a former employee of the Colorado Division of Wildlife with responsibility over birds of prey.

Because he is now under contract to sell his rural home, Mr. Stoddart is eager to move this process quickly. Please contact me to discuss.

Very truly yours,

BARBER EMERSON, L.C.



Terrence J. Campbell

¹I have not analyzed whether federal and state law might trump city law in this area.

²Compare K.A.R. 115-18-1(b) (stating qualifications to receive wildlife rehabilitation permit) with K.A.R. 115-14-12(l) (stating qualifications of Master Falconer) (both regulations attached).

TJC:dls

cc: Mike Amyx
Michael Dever
Jeremy Farmer
Dr. Terry Riordan
Bob Schumm