

ORDINANCE NO. 09-01-2017

AN ORDINANCE AMENDING 'TITLE 5 SECTION 2: ANIMAL CONTROL' OF THE SANTAQUIN CITY CODE, PROVIDING FOR CODIFICATION, CORRECTION OF SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Santaquin is a fourth class city of the State of Utah; and

WHEREAS, cities in the State of Utah are authorized to enact ordinances in order to promote and protect the health safety and welfare of the community; and

WHEREAS, the Santaquin City Council has previously adopted an ordinance regarding the regulation of animals in the City to protect the public health, safety and welfare of its residents and desires now to modify those regulations;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANTAQUIN, UTAH, THAT:

Section I: Section 5-2-6 of the Santaquin City Code is hereby amended to read as follows: (Underlined text is added text, ~~Strikeout~~ text is deleted text)

5-2-1: DEFINITIONS:

As used in this chapter, unless the context otherwise indicates, the following definitions and those found in section [10-2-2](#) of this code shall apply:

ADULT ANIMAL: Any animal being more than six (6) months old.

ANIMAL BOARDING ESTABLISHMENT: Any establishment that takes in animals for boarding.

ANIMAL CONTROL OFFICER: The person or persons selected by the city council, or the director of public safety, to be responsible for the operation of the pound and/or enforcement of the Santaquin animal control regulations.

ANIMAL GROOMING PARLOR: Any commercial establishment maintained for the purpose of offering cosmetic services for animals for a fee.

ANIMAL SHELTER: Any facility owned, operated or maintained for the care and

custody of seized, stray, homeless, quarantined, abandoned, unwanted animals or animals held for the purpose of protective custody under the authority of this title or state law. Such may include a city facility or on site impound.

AT LARGE: Off the premises of the owner and not under the immediate control of the owner or a member of the owner's immediate family either by leash, cord, chain or electronic control device.

Attack” means conduct that (1) causes actual physical injury; (2) any menacing or threatening behavior including baring of teeth, growling, lunging, barking aggressively, and approaching in an aggressive manner causing fear, intimidation, or apprehension to a reasonable person in a place where they have a legal right to be.

BREEDER: Anyone who causes or allows the breeding of any household pet identified within this chapter, or makes that household pet available to be bred.

COMMERCIAL ANIMAL ESTABLISHMENT: Any pet shop, animal grooming parlor, guard dog location or exhibition, riding school or stable, zoological park, circus, rodeo, animal exhibition, cattery, kennel, or animal breeding or boarding establishment.

DOG: Any adult *Canis familiaris*. Any *Canis familiaris* under six (6) months of age is a puppy.

ESTRAY: Shall be as defined under Utah state code section [4-25-1](#) as may be amended from time to time.

HOLDING FACILITY: Any pet shop, kennel, animal grooming parlor, riding school, stable, animal shelter, veterinary hospital, humane establishment, or any other such facility used for holding animals.

IMPOUNDED: Having been received into the custody of the city pound or into the custody of any authorized agent or representative of the city.

KENNEL: A commercial establishment having three (3) or more dogs or puppies over four (4) months old on the premises. A kennel is only allowed for commercial purposes and only in specified zones.

ON SITE IMPOUND: The place where an animal under seizure by law enforcement personnel, animal services personnel or an agent thereof, on a property other than an animal services sheltering facility pending transportation

or court seizure order.

OWNER: When applied to the proprietorship of a dog, shall mean any person or persons, firm, association or corporation owning, keeping or harboring a dog.

PET SHOP: Any commercial establishment properly licensed to maintain, keep or display dogs, cats, birds or other household pets for sale. "Pet shop" does not include government animal shelters, humane shelters as defined by statute, or veterinary clinics whose major business is veterinary medicine.

POUND: An animal shelter, lot, premises or building maintained by or authorized or employed by the city for the confinement or care of dogs or other household pets, estrays or other valuable animals seized either under the provision of this chapter or otherwise.

RIDING SCHOOL OR STABLE: An establishment which offers boarding and/or riding instruction for any horse, pony, donkey, mule or burro, or which offers the use of such animals for hire.

"Serious Bodily Injury" means bodily injury to a person that creates or causes broken bones, a serious permanent disfiguring laceration requiring either multiple stitches or cosmetic surgery, protracted loss or impairment of the function of any bodily member or organ, or creates a substantial risk of death.

STRAY: Any animal "at large", as defined herein.

UNLICENSED DOG: A dog for which the license for the current year has not been paid, or to which the tag provided for in this chapter is not attached.

VICIOUS ANIMAL: ~~A dog, or Any other animal, other than a dog, with a known propensity, tendency, or disposition to that~~ attacks unprovoked without justification, or to causes injury to, or to otherwise endangers the safety of humans or other domestic animals.

VICIOUS DOG: ~~A dog that has bitten, clawed, attacked, chased, harassed, pursued, or worried a person without provocation or a dog that has a known propensity to attack or bite human beings. The term worried shall have the same meaning as in section 5-2-6 of this chapter. (Ord. 5-06-2015, 6-3-2015, eff. 6-4-2015)~~

A dog that, without justification: (1) attacks a person or domestic animal; or (2) inflicts serious bodily injury to a human being; A dog's breed shall not be the sole factor considered in determining whether or not it is "vicious." Neither growling

nor barking, nor both, shall alone constitute grounds upon which to find a dog to be vicious.

Worry” means to harass livestock by tearing, biting or shaking with the teeth or without provocation to chase livestock or to approach such livestock in an apparent mode of attack when such livestock is in a place where it has a legal right to be

5-2-6: DANGEROUS OR VICIOUS ANIMALS:

A. Dogs Attacking Persons And Animals:

~~1. Allowing Dog To Attack: It shall be unlawful for the owner or person having charge, care, custody or control of any dog to allow such dog to bite, claw, attack, chase, harass, pursue or worry any person, any domestic animal having a commercial value, or any species of hoofed protected wildlife, or to attack domestic fowl. "Worry", as used in this section, shall mean to harass by tearing, biting or shaking with the teeth.~~

1. It shall be unlawful for the owner or person having charge, care, custody or control of any dog to allow such dog, without justification, to attack any person or domestic animal, or to attack or worry any livestock, any species of hoofed protected wildlife or domestic fowl.

2. Owner Liability: The owner in violation of subsection A1 of this section shall be strictly liable for any violation of this section. The owner of such dog shall also be liable for damages to any person injured or to the owner of any animal injured or destroyed thereby.

3. Notwithstanding Subsection A2, neither the state nor any county, city, or town in the state nor any peace officer employed by any of them shall be liable in damages for injury committed by a dog if: (a) the dog has been trained to assist in law enforcement, and (b) the injury occurs while the dog is reasonably and carefully being used in the apprehension, arrest, or location of a suspected offender or in maintaining or controlling the public order.

4. Where any injury has been committed by two or more dogs acting together and such dogs are owned or kept by different persons, all such persons, may be joined

as defendants in the same action to recover damages therefore, and the amount found by the court or jury as damages for such injury shall be apportioned among the several defendants found liable and judgment shall be entered severally against them for the amount so apportioned

5. Any person may injure or kill a dog while the dog is attacking (a) a person (b) a domestic animal; (c) any service animal, as defined in Section 62A-5b-102, U.C.A., 1953, as amended; or (d) the dog is being pursued for committing an act described in Subsection (1).

6. Any person may injure or kill a dog while the dog is attacking or worrying (a) any species of hoofed protected wildlife; (b) livestock; or (c) domestic fowls.

~~3. Defenses: It shall be a defense to any charge under this section that the act was committed within the home or curtilage of the owner of the dog; and the person or animal attacked was not either an occupant, invitee, or a person within an area of the owner's property where a reasonable person would believe he or she would be permitted to enter.~~

~~4. Mitigating Circumstances: The following shall be considered in mitigating the fines or damages upon conviction of a violation of this section:~~

~~a. That the dog was properly confined on the premises.~~

~~b. That the dog was deliberately or maliciously provoked.~~

7. Defenses: It shall be a defense to any charge, or mitigating circumstances to any finding of an animal being a vicious dog, or conviction of a violation of this section that:

a. The act was committed within the home or curtilage of the owner of the dog; and the person or animal attacked was not either an occupant, invitee, or a person within an area of the owner's property where a reasonable person would believe he or she would be permitted to enter;

b. The animal was properly confined on the premises;

c. The animal was deliberately or maliciously provoked or threatened;

d. The threat, injury, or death was sustained by a person who at the time was committing a crime or offense upon the owner or custodian of the animal, or was committing a willful trespass or other tort upon the premises or property owned or occupied by the owner of the animal;

e. The animal was responding to pain or injury, or was protecting itself, its owner, custodian or member of its household, kennel or offspring unless the animal or its owner or custodian was involved in illegal activity; or

f. The injury or damage to an animal was sustained while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of its owner or custodian, and the damage or injury was to a species or type of animal appropriate to the legally applied work of the dog.

~~5. Allowing Dog To Attack An Animal: Any dog that acts in a manner that results in a conviction of allowing a dog to attack an animal under subsection A1 of this section, shall be removed from the city within five (5) calendar days of said conviction.~~

~~6. Allowing Dog To Attack A Person: The sentence upon a conviction of allowing a dog to attack a person under subsection A1 of this section shall include the euthanization of the offending dog within five (5) days of the conviction.~~

~~7. Dogs May Be Killed: Any person may kill a dog while it is committing any of the acts specified in subsection A1 of this section or while such dog is being pursued thereafter.~~

B. Judicial Hearing and Remedies

1. Judicial Hearing Procedure. Any person may make a complaint of an alleged “vicious dog” as that term is defined herein to a animal control officer or a police officer of Santaquin City. Such officer(s) shall immediately inform the complainant of their right to commence a judicial hearing as provided for in Paragraph 2.

2. Any person may, and any police officer or animal control office, shall make a complaint under oath or affirmation of an alleged “vicious dog” as that term is defined herein to any municipal judge or justice. Thereupon, the judge or justice, shall immediately determine if there is probable cause to believe that the dog is a “vicious dog” that presents an immediate clear and present danger to the community and, if so, shall issue an order to any police officer or animal control officer directing such officer to immediately seize such dog and hold same pending judicial determination as herein provided. Whether or not the judge or justice finds there is probable cause for such seizure, the court shall, within five (5)

working days and upon written notice of not less than three (3) days to the owner of the dog, hold a judicial hearing on the complaint.

3. An evidentiary hearing shall be held to determine if a dog can be classified as “vicious”. Witnesses may be called by the city and by the dog’s owner as to the circumstances of the incident as well as any defenses or mitigating circumstances..

4. In cases involving no serious bodily injury and upon a first offense, the judge or justice, upon finding that the dog is “vicious” as defined herein, may impose any or all of the following conditions upon the owner of the dog:

(a) Indoors, when not alone, the dog must be under the control of a person eighteen (18) years or older.

(b) Outdoors and unattended, the dog must be kept within a locked fenced area from which it cannot escape.

(c) When outdoors the dog must be attended and kept within a fence area from which it cannot escape.

(d) When outdoors the dog must be attended and kept on a leash no longer than six (6) feet and under the control of a person eighteen (18) years of age or older.

(e) When outdoors the dog must be attended and muzzled. Such muzzle shall not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.

(f) Attendance by the dog and its owner/caregiver at training sessions conducted by a certified applied animal behaviorist, board-certified veterinarian behaviorist or other recognized expert in the field and completion of training or any other treatment as deemed appropriate by such expert. The owner of the dog shall be responsible for all costs associated with the ordered evaluation and training

(g) Surgical sterilization of the dog at the owner’s expense, unless medically contraindicated.

(h) That the dog be permanently identified by tattooing or by injecting an identification microchip using standard veterinary procedures and practices, identification number and the identification of the person performing the procedure to be registered with Santaquin City.

(i) The owner of the dog shall be required to register such animal with Santaquin City, and to provide prompt notification to Santaquin City of any changes in the ownership of the animal; names, addresses and telephone numbers of new owners; any change in the health status of the animal; any further instances of attack; any claims made or lawsuits brought as a result of further instances of attack; and/or the death of the animal.

5. In cases involving serious bodily injury, a second incident giving rise to a finding of a “vicious dog,” or the failure to comply with conditions imposed upon a prior conviction as listed in B4, the judge or justice may impose any or all of the following conditions upon the owner of the dog:

(a) When outdoors the dog must be attended and muzzled. Such muzzle shall not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.

(b) Outdoors and unattended, the dog must be confined to an escape-proof fixed dog run of the following description:

(i) Such fixed dog run shall allow the dog to stand normally and without restriction, and shall be at least two and one half (2.5) times the length of the dog, and shall protect the dog from the elements.

(ii) Fencing materials shall not have openings with a diameter of more than two (2) inches, and in the case of wooden fences, the gaps shall not be more than two (2) inches.

(iii) Any gates within such fixed dog run or structure shall be lockable and of such design as to prevent the entry of children or the escape of the animal, and when the dog is confined to such fixed dog run and unattended such locks shall be kept locked.

(iv) The fixed dog run may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.

(v) Placement of a sign or signs of a description and in places directed by the judge or justice, advising the public of the presence and tendencies or said animal.

(c) Surgical sterilization of the dog at the owner’s expense, unless medically contraindicated.

(d) That the dog be permanently identified by tattooing or by injecting an identification microchip using standard veterinary procedures and practices, identification number and the identification of the person performing the procedure to be registered with Santaquin City.

(e) The owner of the dog shall be required to register such animal with Santaquin City, and to provide prompt notification to Santaquin City of any changes in the ownership of the animal; names, addresses and telephone numbers of new owners; any change in the health status of the animal; any further instances of attack; any claims made or lawsuits brought as a result of further instances of attack, or the death of the animal.

(f) The removal of the dog from Santaquin City to another location that meets the conditions imposed by the court including appropriate notice of the finding of a “vicious dog” to any future owner or custodian.

(g) The humane destruction of the animal.

6. In addition, if a judge or justice determines that an animal is a “vicious dog”, the owner of such dog shall pay all impoundment fees, maintenance fees, or any other fees that may be incurred as a result of such impoundment and/or disposal.

7. It shall be unlawful for any person to own, keep or harbor any “vicious dog” in the City unless permitted by a court with appropriate conditions imposed. Each day that a violation is not mitigated after written notice to the owner’s address by the city will be considered a separate violation

~~B. Fierce, Dangerous Or Vicious Animals: It shall be unlawful for any person to own, keep or harbor any fierce, dangerous or vicious animal or vicious dog in the city. For purposes of this subsection, the term “vicious dog” shall have the meaning set forth in section 5-2-1 of this chapter and shall also include any dog that is or has ever been the subject of any violation of this section or of any similar law, statute or ordinance of another jurisdiction. Each day that said violation is not mitigated after written notice to the owner's address by the city will be considered a separate violation. (Ord. 08-01-2013, 8-21-2013, eff. 8-22-2013)~~

~~C: DOGS USED FOR LAW ENFORCEMENT PURPOSES: The provisions of this section do not apply to dogs used for law enforcement purposes by the police department or other public law enforcement agencies.~~

Section II. Contrary Provisions Repealed. Any and all other provisions of the Santaquin City Code that are contrary to the provisions of this Ordinance are hereby repealed.

Section III. Codification, Inclusion in the Code, and Scrivener’s Errors. It is the intent of the City Council that the provisions of this ordinance be made part of the Santaquin City Code as adopted, that sections of this ordinance may be re-numbered or re-lettered, and that the word ordinance may be changed to section, chapter, or other such appropriate word or phrase in order to accomplish such intent regardless of whether such inclusion in a code is accomplished. Sections of the ordinance may be re-numbered or re-lettered. Typographical errors which do not affect the intent of this ordinance may be authorized by the City without need

of public hearing by its filing a corrected or re-codified copy of the same with the City Recorder.

Section IV. Severability. If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section V. Posting and Effective Date. Prior to 5:00 p.m. on September 7, 2017, the City Recorder shall: (a) deposit a copy of this ordinance in the official records of the City; and (b) post a copy of this ordinance in three places within the City. This ordinance shall become effective at 5:00 p.m. on September 7, 2017.

ADOPTED by the Santaquin City Council on the 6th day of September, 2017.

Mayor Kirk F. Hunsaker

Attest:

Susan B. Farnsworth
Santaquin City Recorder

Council Member Keith Broadhead _____
Council Member Nick Miller _____
Council Member David Hathaway _____
Council Member Mandy Jeffs _____
Council Member Marianne Stevenson _____