

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)

5-2-6: 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.

2. Owner Liability: The owner in violation of subsection A.1. 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. 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.

5. Allowing Dog To Attack A Person or An Animal (First Offense): ~~Any dog that acts in a manner that results in a~~ Upon conviction of allowing a dog to attack a person or an animal under subsection A.1. of this section, ~~shall the judge or justice shall impose one of the following conditions upon the owner of the dog; be removed from the city within five (5) calendar days of said conviction.~~

- a. The humane destruction of the animal within five (5) calendar days of said conviction.
- b. The permanent removal of the dog from Santaquin City; Injection of an identification microchip using standard veterinary procedures and practices, identification number, and the identification of the person performing the procedure; and filed notice with the entity having jurisdiction over the new location of the identification and relocation of the dog and the finding of a "vicious dog" within five (5) calendar days.
- c. Enhanced supervision requirements, including:
 - (i) Indoors and attended, the dog must be under the control of a person eighteen (18) years of age or older;

- (ii) Indoors and unattended, the dog must be secured inside the premises in such a manner that it cannot escape the premises;
- (iii) Outdoors and attended, the dog must be attended by a person eighteen (18) years of age or older and kept within a fenced area from which it cannot escape or kept on a leash no longer than six (6) feet and muzzled. Such muzzle shall be designed to prevent injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal; and
- (iv) Outdoors and unattended, the dog must be confined to an escape-proof fixed dog run of the following description:
 - a. 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.
 - b. 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.
 - c. 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.
 - d. At the discretion of the judge or justice, the fixed dog run may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.
 - a-e. At the discretion of the judge or justice, installation and placement of a sign or signs advising the public of the presence and tendencies of said animal.

6. Allowing Dog To Attack A Person or An Animal (Second Offense): ~~The sentence is~~ Upon a second conviction of allowing a dog to attack a person or an animal under subsection A.1. of this section, the judge or justice shall

impose one of the following conditions upon the owner of the dog:

(a) The humane destruction of the animal.

(b) The permanent removal of the dog from Santaquin City; Injection of an identification microchip using standard veterinary procedures and practices, identification number, and the identification of the person performing the procedure; and filed notice with the entity having jurisdiction over the new location of the identification and relocation of the dog and the finding of a “vicious dog” within five (5) calendar days.

7. Dogs May Be Killed: Any person may kill a dog while it is committing any of the acts specified in subsection A.1. of this section or while such dog is being pursued thereafter.

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 this 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 _____