

ORDINANCE NO. 06-01-2018

AN ORDINANCE AMENDING "TITLE 5 CHAPTER 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 to promote and protect the health, safety and welfare of the community; and

WHEREAS, the Santaquin City Council 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 5-2-1 of the Santaquin City Code is hereby amended to read as follows: (Underlined text is added—lined out text is stricken)

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~~ Police Chief, 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.

BODILY INJURY: Any physical pain, illness, or any impairment of physical condition.

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 six (6) months of age or older. Any Canis familiaris under six (6) months of age is a puppy.

ESTRAY: Shall be as defined under UTAH ~~state code section~~ CODE ANN. § 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~~ six (6) 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 impounded animal is held 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: Bodily injury that creates or causes serious permanent disfigurement, protracted loss or impairment of the function of any bodily member or organ, or creates a substantial risk of death.

SUBSTANTIAL BODILY INJURY: Bodily injury, not amounting to serious bodily injury, that creates or causes protracted physical pain, temporary disfigurement, or temporary loss or impairment of the function of any bodily member or organ.

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 license tag provided for in this chapter is not attached.

VICIOUS ANIMAL: ~~A dog, or any other~~Any animal, other than a dog, with a known propensity, tendency, or disposition to attack ~~unprovoked~~without justification, to cause bodily injury to, or to otherwise endanger the safety of humans or ~~other~~ domestic animals.

VICIOUS DOG: A dog that, without justification, has: bitten, ~~clawed~~, attacked, ~~chased~~, harassed, ~~pursued, or worried~~ or caused bodily injury to or death of a person without provocation or a dog that has a known propensity to attack or bite human beings or domestic animal; or worried a domestic animal. As used in this chapter, the term worried shall have the same meaning as in section 5-2-6 of this chapter means to harass by tearing, biting or shaking with the teeth.

Section II: Section 5-2-6 of the Santaquin City Code is hereby amended to read as follows repealed and replaced with the following:

5-2-6: DANGEROUS OR VICIOUS ANIMALS:

A. DOG ATTACKING PERSON:

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, attack, or harass any person.

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 thereby.

3. Defenses: It shall be a defense to any charge under this section that:

a. The act was committed within the home or curtilage of the owner of the dog; and the person attacked was not 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. A reasonable person would believe the action of the dog was maliciously provoked.

c. A reasonable person would believe the dog acted to protect another person or animal and the victim did not suffer death, Substantial Bodily Injury or Serious Bodily Injury.

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 negligently provoked.

5. Penalties, (First Offense): Upon conviction of allowing a dog to attack a person 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 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.

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.

(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.

d. All enhanced security provisions ordered by the Court shall be the sole responsibility of the dog owner, who shall file proof of compliance with the Court each month during any period of probation, and annually thereafter for so long as the dog is kept within the City. Proof of compliance means written affirmation by a veterinarian or law enforcement official.

6. Penalties, (Second or Subsequent Offense): Upon a second conviction of allowing a dog to attack a person under subsection B.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. A five-hundred dollar (\$500) fine and 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.

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. DOG ATTACKING ANIMAL.

1. Allowing Dog To Attack an Animal: It shall be unlawful for the owner or person having charge, care, custody or control of any dog to allow such dog to bite, attack, harass, or worry 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 shall be strictly liable for any violation of subsection B.1. of this section. The owner of such dog shall also be liable for damages 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 animal attacked was not 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 secured.
- b. That the dog was provoked.
- c. That the dog was protecting another animal or person.

5. Penalties, (First Offense): Upon conviction of allowing a dog to attack an animal under subsection B.1. of this section, the judge or justice shall impose one of the following conditions upon the owner of the dog:

- a. 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.
- b. 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 on a leash no longer than six (6) feet; or, kept within a fenced area from which it cannot escape; and
 - (iv) Outdoors and unattended, the dog must be confined in a fenced area from which it cannot escape.
- c. A fenced area in which a dog is confined 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.
- d. A fenced area in which a dog is confined 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.
- e. At the discretion of the judge, installation and placement of a sign or signs advising the public of the presence and tendencies of said animal.

6. Penalties, (Second Offense): Upon a second or subsequent conviction of allowing a dog to attack an animal under subsection B.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. A five-hundred dollar (\$500) fine and 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.

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

C. FIERCE, DANGEROUS OR VICIOUS ANIMALS: It shall be unlawful for any person to own, keep or harbor any vicious dog, or any other fierce, dangerous or vicious animal in the city, unless permitted by a court with conditions imposed as described in section 5-2-6 A.5.c. 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 this or any other 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)

D. 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 III. 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.

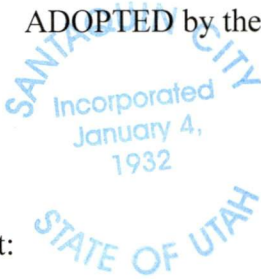
Section IV. Codification, Inclusion in the Code, and Scrivener's Errors. It is the intent of the City Council that the provisions of this ordinance be made part of the Santaquin City Code as adopted, that sections of this ordinance may be re-numbered or re-lettered, and that the word ordinance may be 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.

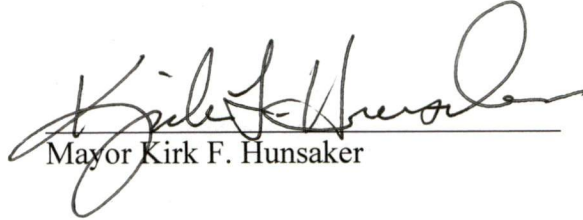
Section V. Severability. If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction,

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 VI. Posting and Effective Date. Prior to 5:00 p.m. on June __, 2018, 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 June __, 2018.

ADOPTED by the Santaquin City Council this __ day of June, 2018.




Mayor Kirk F. Hunsaker

Attest:


Susan B. Farnsworth
Santaquin City Recorder

Councilmember Keith Broadhead	Voted <u>absent</u>
Councilmember Lynn Mecham	Voted <u>yes</u>
Councilmember Nick Miller	Voted <u>yes</u>
Councilmember Elizabeth Montoya	Voted <u>yes</u>
Councilmember Chelsea Rowley	Voted <u>absent</u>