

# TOQUERVILLE CITY ANIMAL ORDINANCE #02-09-06

## AMENDING: CITY ANIMAL ORDINANCE #.01-09-03

WHEREAS, The Toquerville City Council has determined a need in the City for a comprehensive approach to the Care and Keeping of Animals and Prohibitions of;

WHEREAS, the City Council has identified SECTION 13.203, Care and Keeping of Animals; Prohibitions, to be amended and adopted as provided herein;

THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Toquerville, Utah, that the attached Ordinance will be known as the Toquerville City Animal Control Ordinance; and hereby adopted as Chapter 13.200 of the Toquerville City Code, AMENDED SECTIONS 13.203, and SECTION 13.210.02.

BE IT FURTHER ORDAINED, that Toquerville City Ordinance #02-09-06 shall repeal and supercede all prior ordinances and resolutions governing animal control in the City including without limitation, Ordinance #01-09-03, and Ordinance #04-08-97.

### SECTION:

13.200	Title
13.201	Definitions
13.202	Dogs
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### 13.200 **TITLE:**

This Ordinance shall be known as the Toquerville City Animal Control Ordinance.

### 13.201 **DEFINITIONS:**

As used in this Chapter, unless context otherwise indicates, the following words shall mean:

<b>ABANDONED OR STRAYED:</b>	An animal whose owner cannot be immediately identified through reasonable diligence.
<b>ANIMAL CONTROL DIRECTOR:</b>	The director of the Animal Control Department or equivalent agency contracted by the city to enforce the terms of the Toquerville Animal Control Ordinance.
<b>ANIMAL CONTROL OFFICER:</b>	Officers retained by contract to enforce this ordinance.

**ANIMAL SHELTER:** A facility owned and/or operated by a governmental entity or any society incorporated in the State of Utah for the purpose of preventing cruelty to animals and used for the care and custody of seized, stray, homeless, quarantined, abandoned or unwanted dogs, cats or other small domestic animals.

**AT LARGE:** Any domesticated animal off the premises of the owner or custodian of the animal, and not under immediate control of the owner or custodian. In the case of a dog, immediate control shall mean on a leash, cord, chain, confined within a vehicle or within the direct command of the owner or custodian.

**BITE:** An actual puncture, tear or abrasion of the skin inflicted by the teeth of an animal.

**CATTERY:** An establishment for boarding, breeding, buying, grooming or selling cats for profit.

**DIVISION OF ANIMAL CONTROL:** The Toquerville Division of Animal Control, shall be the animal control department or the equivalent department or agency designated, pursuant to contract enforcing the terms of this ordinance, including, without limitation, to apprehend, take and impound any animal found in violation of the Toquerville Animal Ordinance, and to otherwise carry out and enforce the provisions of the Toquerville Animal Control Ordinance pursuant to the terms of the “Agreement for Animal Control Services”.

**DOG:** Any male, female or spayed female or neutered male dog of any age.

**DOMESTICATED ANIMALS:** Animals accustomed to living in or about the habitation of man.

**GROOMERY:** Any establishment maintained for the purpose of offering cosmetic service for animals for profit.

**IMPOUNDED:** Having been received into the custody of an animal control officer for confinement in a pound or into the custody of any authorized agent or representative of the City.

**KENNEL, COMMERCIAL:** A commercial establishment or other facility having three (3) or more dogs for the purpose of boarding, breeding, keeping, buying, selling, grooming, letting for hire or training for a fee.

**KENNEL, RESIDENTIAL:** The keeping or maintaining of more than two (2) but no more than four (4) dogs in connection with the occupation of any dwelling for residential purposes.

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

**PET SHOP:** Any establishment containing cages or exhibition pens, not part of a kennel or cattery, wherein dogs, cats, birds or other pets for sale are kept or displayed.

- POUND:** An animal shelter, lot, premises or building maintained by, or authorized or employed by the City, for confinement or care of dogs seized either under the provision of this Chapter or otherwise.
- QUARANTINE:** The isolation of an animal in a substantial enclosure so that the animal is not subject to contact with other animals or unauthorized persons.
- RIDING SCHOOL / STABLE:** An establishment which offers boarding and/or riding instruction for any horse, pony, donkey, mule or burro, or which offers such animals for hire.
- UNLICENCED DOG:** A dog for which a license for the current year has not been paid, or for which the tag provided for in this Chapter is not attached.
- VICIOUS ANIMAL:** Any animal, including dogs, which has bitten without provocation or has a known propensity to attack or bite.
- WILD ANIMAL:** Any animal of a species that in its natural habitat is wild.

**13.202 DOGS:**

**13.202.01 Licensing Requirements:**

- A. **Limitation on Number of Dogs Allowed:** Except for commercial kennels having been granted a conditional use permit by the Planning Commission, no person or entity shall own, possess, keep or maintain more than three (3) dogs in one location within the City limits. Further, no person or entity shall own, possess, keep or maintain more than two (2) dogs unless a conditional use permit for a residential kennel has been approved by the Planning Commission.
- B. **Age of Owner:** Except as provided herein, all dogs must be licensed each year to a person eighteen (18) years of age or older.
- C. **Time Within Which To Obtain License:** Any person or entity owning, possessing or harboring any dog shall obtain a license for such animal within thirty (30) days after the dog reaches the age, of four (4) months, or, in the case of a dog over four (4) months, within ten (10) days after acquisition of the dog. A new resident shall obtain a license for each dog in his/her possession within thirty (30) days of establishing residency in Toquerville.
- D. **Application For License:**
  - 1. **General Requirements:** New or renewal license applications for all dogs must be submitted annually to the City Clerk, utilizing a standard form which contains the name, address and telephone number of the applicant; the breed, sex, color and age of the animal; the number of animals for which a license is sought; a description of the facilities for the care of the dogs; rabies information and any other information deemed relevant. The application shall be accompanied by the prescribed license fee and by a current rabies vaccination certificate. Rabies vaccination certificates must be obtained from a licensed veterinarian every two (2) years.

2. Licensing More Than Two Dogs: In addition to the requirements of subsection 13.220.01 (D),(1), applications for a license for a third or fourth dog in any zone shall not be approved until such time that a conditional use permit for a residential kennel has been granted by the Planning Commission.

E. Fees for License: No license shall be issued until the following annual fees have been paid:

First 2 dogs (each):

Female Dog	\$20.00
Male Dog	\$20.00
*Spayed or Neutered Dog	\$ 8.00
Third Dog	\$50.00
Fourth Dog	\$75.00
Late Fee (in addition to above)	\$20.00

\*No dog will be licensed as spayed or neutered without proof that such surgery was performed.

F. Effective Date of License: All licenses shall be effective from the date of purchase through the end of December of the following year, after which a late fee may be imposed. Licenses for the following year may be purchased within ninety (90) days prior to the end of December.

13.202.02 License Tags:

- A. Upon payment of the license fee, the City Clerk shall issue to the owner a certificate and a tag for each dog licensed. The tag shall have stamped thereon the license number corresponding with the tag number on the certificate. The owner shall attach the tag to the collar or harness of the animal and see that the collar and the tag are constantly worn. Failure to attach the tag as provided shall be in violation of this Chapter, except that dogs which are kept primarily for show purposes are exempt from wearing the tag.
- B. Dog tags are not transferable from one dog to another. No refunds shall be made on any dog license fee for any reason whatsoever. Replacements for lost or destroyed tags shall be issued upon proof of prior receipt and payment of two dollars (\$2.00) to the City Clerk.
- C. Any person removing or causing to be removed from the collar or harness of any licensed dog without consent of an owner or keeper thereof, except a licensed veterinarian or animal control officer who removes such for medical and other reasons, shall be in violation of this Chapter.

13.202.03 Exemptions To Licensing Requirements:

- A. The provisions of subsections 13.202.01 and 13.202.02 shall not apply to:
  - 1. Dogs which have a current, valid license from another city/town and whose owners are not residents of the City but who are in the City for less than thirty (30) days.

13.202.03 – A-1. (Cont.)

Dogs licensed elsewhere and whose owners remain in the City for more than thirty (30) days may transfer the license for up to two (2) dogs to a City license upon payment of a five dollar (\$5.00) fee and submission of proof of current rabies vaccination. However, no transfer shall be allowed for a third or fourth dog, and a license for any such dog shall be obtained pursuant to the provisions of this Chapter.

2. Individual dogs held for sale in a commercial kennel, pet shop or other establishment which has been granted the appropriate license and/or conditional use permit.
- B. The fee provisions of subsection 13.202.01 shall not apply to:
1. Seeing eye dogs properly trained to assist blind persons if such dogs are actually being used by blind persons to assist them in moving from place to place. (Proof of state certification as a seeing eye dog is required.)
  2. Hearing dogs properly trained to assist deaf persons if such dogs are actually used by deaf persons to aid them in responding to sounds (proof is required).
  3. Dogs specially trained to assist officials of government agencies in the performance of their duties and which are owned by such agencies (proof is required).
- C. Nothing in this Section shall be construed so as to exempt any dog from having a current rabies vaccination.

13.202.04 Unlawful Acts:

- A. **Harboring Stray Dogs:** It shall be unlawful for any person, except an animal shelter, to harbor or keep any lost, abandoned or strayed dog. Whenever any dog shall be found which appears to be lost or strayed, it shall be the duty of the finder to notify a City officer or official within twenty four (24) hours; an Animal Control Officer shall impound the dog as herein provided.
- B. **Female Dogs In Heat:** It shall be unlawful for the custodian of any female dog in heat to fail to confine such dog in a secure enclosure so as to prevent it from coming into contact with other dogs and creating a nuisance, except for planned breeding.
- C. **Attacking Dogs:** It shall be unlawful for the owner or custodian of any dog to allow the dog to attack, chase or worry any person, any domestic animal having a commercial value, or any domestic fowl. "Worry", as used in this subsection, shall mean to harass by tearing, biting or shaking with the teeth. Killing of a dog by any person while the dog is engaged in any act prohibited by this subsection, which is reasonably necessary to stop the dog's actions, shall not be in violation of any other provision of this Chapter, provided such killing in no way endangers another's safety or property.

13.202.05 Rabies Control:

- A. **Vaccination Required:** Every owner of any dog over the age of four (4) months within the City shall have the dog vaccinated against rabies by a duly licensed veterinarian, shall secure from the veterinarian a certificate thereof, and shall attach to the collar or harness, which such

person is hereby required to place upon the dog, a tag showing that such vaccination has been done; provided, that the City Council may, by resolution, provide that owners of any dog may themselves purchase serum and vaccinate their own dogs. The resolution shall also prescribe the condition with which the owner must comply to obtain the tag hereinafter required.

- B. **Public Places; Vaccination; Tag Required:** It shall be unlawful for the owner of any dog to suffer, allow or permit such dog to be or go upon any sidewalk, street, alley, public place or square within the City without first having had such dog vaccinated every two (2) years against rabies as above provided within the past two (2) years, and without there being on such dog a collar or harness with a license tag thereon showing that such dog has been so vaccinated.
- C. **Duty To Report Bites:** Any person having knowledge of any individual or animal having been bitten by an animal of a species subject to rabies shall report the incident immediately to the City officer or official, giving the name and address of the person bitten and of the owner or custodian of the biting animal, if available. Failure to provide such information or otherwise assist the Animal Control Officer to provide such information or otherwise assist the Animal Control Officer in discovering possible exposure to rabies or in ascertaining the immunization of an animal shall be in violation of this Chapter.
- D. **Vaccination; Certificate:** Rabies vaccination is required for dogs and cats.
1. The owner or custodian of a dog or cat shall have said animal vaccinated within thirty (30) days after it reaches the age of four (4) months. Unvaccinated dogs or cats over four (4) months of age acquired by the owner or brought into the jurisdiction must be vaccinated within thirty (30) days. Every dog shall be revaccinated thereafter every twenty four (24) months, and every cat shall be revaccinated thereafter every twelve (12) months with a modified rabies virus vaccine as approved by the State Division. This provision shall not apply to veterinarian or kennel operators temporarily maintaining on their premises animals owned by others. Each veterinarian, when vaccinating any animal for rabies, shall complete a certificate of rabies vaccination (in duplicate) which includes the following information:
    - Owner's name and address;
    - Description of animal (breed, sex, marking, age, name);
    - Date of vaccination;
    - Rabies vaccination tag number;
    - Type of rabies vaccine administered;
    - Manufacturer's serial number of vaccine.
  2. A copy of the certificate shall be distributed to the owner and the original retained by the issuing veterinarian. Any unvaccinated animal shall be impounded but may be reclaimed prior to disposal by payment of impound fees and by obtaining a rabies vaccination within seventy two (72) hours of release. Any animal not reclaimed prior to the five (5) day period may be disposed of pursuant to provisions of subsection 13.205.08.

E. Quarantine:

1. An animal that has rabies or shows signs of having rabies, and every animal bitten by another animal affected with rabies or that has been exposed to rabies shall be reported by the owner, as set forth above, and shall immediately be confined in a secure place by the owner. The owner shall turn over the animal to the Division of Animal Control upon demand. The Division shall quarantine the animal for observation for a period of not less than ten (10) days. The owner of the animal shall bear the cost of confinement. The animal shelter or a veterinary kennel shall be the normal place for quarantine, but other arrangements, including confinement by the owner, may be made by the Animal Control Officer if the animal has a current rabies vaccination at the time the bite was inflicted or if there are other special circumstances justifying an exception. A person who has custody of an animal under quarantine shall immediately notify the Division of Animal Control if the animal shows any signs of sickness or abnormal behavior, or if the animal escapes confinement. It shall be unlawful for any person who has custody of a quarantined animal to fail or refuse to allow a health or Animal Control Officer to make an inspection or examination during the period of quarantine. If the animal dies within ten (10) days from the date of the bite, the person having custody shall immediately notify an Animal Control Officer or immediately remove and deliver the head of such animal to the State health laboratory to be examined for rabies. If, at the end of the ten (10) day period, an Animal Control officer examines the animal and finds no sign of rabies, the animal may be released to the owner, or in the case of a stray, it shall be disposed of as provided in subsection 13.205.08.
2. In the case of an unvaccinated animal species subject to rabies which is known to have been bitten by a known rabid animal, said bitten or exposed animal should be immediately destroyed. If the owner is unwilling to destroy the bitten or exposed animal, the animal shall be immediately isolated and quarantined for six (6) months under veterinary supervision, the cost of such confinement to be paid in advance by the owner. The animal shall be destroyed if the owner does not comply herewith.
3. If the bitten or exposed animal has been vaccinated, the animal shall be revaccinated within twenty four (24) hours and quarantined for a period of thirty (30) days following revaccination; if the animal is not revaccinated within twenty four (24) hours, the animal shall be isolated and quarantined under veterinary supervision for six (6) months. The animal shall be destroyed if the owner does not comply herewith.

13.203 **CARE AND KEEPING OF ANIMALS; PROHIBITIONS:**

13.203.01 Animals At Large:

- A. It shall be unlawful for the owner or custodian of any animal, other than domestic cats, to allow such animals at any time to run at large. The owner or person charged with responsibility for an animal found running at large shall be strictly liable for a violation of this subsection, regardless of the precautions taken to prevent the escape of the animal and regardless of whether or not he knows that the animal is running at large.
- B. No cattle, horses, mules, sheep, goats or swine shall be allowed to run at large, or to be picketed or staked out upon any street, sidewalk or other public place within the limits of this City, and all such animals so found may be impounded.

C. Keeping of Livestock: The keeping of livestock shall be limited to the following provisions.

<u>Animal</u>	<u>*Minimum Square Feet</u>	<u>Square Feet per Animal</u>
Horse, Mule, Donkey`	10,000	5,000
Cow	10,000	5,000
Sheep, Goat, Llama	10,000	2,500
Chicken, Duck	500	25
Turkey, Goose	1,000	50

\*Amount of Land Dedicated Solely to the Use

1. Maximum of 50 small animals in cages or hutches such as rabbits and quail.
2. These numbers do not include animals younger than six (6) months.
3. Adequate Containment must be provided for all animals.

- 13.203.02 Animals On Unenclosed Premises: It shall be unlawful for any person to chain, stake out or tether any animal on any unenclosed premises in such a manner that the animal may go beyond the property line unless such person has permission of the owner of the affected property.
- 13.203.03 Places Prohibited To Animals: It shall be unlawful for any person to take or permit any animal in or about any establishment or place of business where food or food products are sold or displayed, regardless of how the animal may be restrained, except for seeing eye dogs.
- 13.203.04 Vicious Animals: It shall be unlawful for the owner of a vicious animal to permit such animal to go or be off the premises of the owner or custodian unless such animal is under control and properly muzzled so as to prevent it from injuring any person or property. Every animal so vicious and dangerous that it cannot be reasonably controlled, shall be considered a hazard to the public safety, and the animal control officer may impound the animal.
- 13.203.05 Waste Disposal: It shall be unlawful for the owner or custodian of an animal to permit the animal to defecate upon a public street, sidewalk, park or other area, or upon the property of another unless the owner or custodian promptly removes and properly disposes of all animal waste that results.
- 13.203.06 Abandonment: It shall be unlawful for any person to abandon or turn out at large any sick, diseased or disabled animal, but such animal shall, when rendered useless by reason of sickness or other disability, be killed by the owner thereof and its carcass disposed of in such manner as to create no nuisance or hazard to health.
- 13.203.07 Trespassing Animals and Fowl: It shall be unlawful for an owner or caretaker of any domestic fowl or animal to permit such fowl or animal to trespass upon the premises of another person.
- 13.203.08 Killing Or Poisoning: It shall be unlawful for any person willfully to kill any domestic animal, or to administer poison to any such animal or to expose any poisonous substance with the intent that it shall be taken by any such animal.

13.203.09 Dead Animals; Disposal: The owner of any animal or fowl that has died or been killed shall remove or bury the carcass of such animal with ten (10) hours after its death; provided, that no horse, cow, ox or other animal shall be buried within the closely-inhabited portions of this City. A violation of this subsection is an infraction.

13.203.10 Diseased Animals:

- A. It is an infraction for any person to bring into the City for sale or have in his possession with intent to sell or offer for sale, any animal which has a communicable disease or which has been exposed to or which is liable to carry infection from a communicable disease.
- B. It is a infraction for any person to bring into the City for sale or to sell, or offer for sale any cattle, sheep, swine, fish, game, fowl or poultry which is diseased, unsound, and unwholesome or which for any other reason is unfit for human food.

13.203.11 Specific Unlawful Acts: It shall be unlawful for any person to:

- A. Overdrive, overload, drive when overloaded, overwork, torture, cruelly beat, mutilate or needlessly kill, or carry or transport in any vehicle or other conveyance in cruel and inhuman manner, any animal or cause any of these acts to be done.
- B. Failure to provide any animal in his charge or custody with necessary sustenance, drink and protection from the elements, or cause any of these acts to be done.
- C. Maintain any place where, fowl or any animals are suffered to fight upon exhibition or for sport upon any wager:
  - 1. It shall be unlawful for any person to raise, keep or use any animal, fowl or bird for the purpose of fighting or baiting; and for any person to be a party to or to be present as a spectator at any such fighting or baiting of any animal or fowl; and for any person to knowingly rent any building or shed, room, yard, ground or premises for any such purpose as aforesaid, or to knowingly suffer or permit the use of building, shed, room, yard or grounds or premises for the purposes aforesaid.
  - 2. Law enforcement officers or animal control officials may enter any building or place where there is an exhibition of the fighting or baiting of live animals, or where preparations are being made for such an exhibition. The law enforcement officers may arrest persons there present and take possession of all animals engaged in fighting, along with all implements or applications used in such an exhibition. This provision shall not be interpreted to authorize search or arrest without a warrant when such is required by law.
- D. Intentionally exhibit any stud, horse or bull or other animal indecently, or let any male animal to any female animal for the purpose of providing entertainment or viewing to any person.

13.204 **NUISANCE ANIMALS:**

13.204.01 Specified: Any owner or custodian or an animal causing a "nuisance", as defined below, shall be in violation of this Chapter and subject to the penalties provided herein. An animal creates a "nuisance" if it:

- A. Causes damage to the property of anyone other than its owner;

- B. Is a vicious animal not in compliance with subsection 13.204.04;
- C. Causes unreasonable fouling of the air by odors;
- D. Causes continuous unsanitary conditions in enclosures or surroundings;
- E. Barks, whines, howls, or makes other disturbing noises in excessive, continuous or in untimely fashion;
- F. Molests passersby or chases passing vehicles;
- G. Attacks other domestic animals;
- H. Is otherwise determined by the Division of Animal Control to be a public nuisance for any reason designated elsewhere in this Code.

13.204.02 Dogs Disturbing Neighborhood: No person shall own, keep or harbor any dog which by loud, continued or frequent barking, howling, yelping or by noxious or offensive odors shall annoy, disturb or endanger the health and welfare of any person or neighborhood. A violation of this subsection shall be an infraction and such is hereby declared to be nuisance, and each day the violation is permitted to exist or continue shall constitute a separate offense. This subsection shall not apply to the City dog pound, veterinary hospitals or medical laboratories.

13.205 **IMPOUNDING:**

13.205.01 Shelter: The Division of Animal Control shall provide suitable premises and facilities to be used as an animal shelter where impounded animals can be adequately kept and supplied with food and humane care. It shall provide for the painless and humane destruction of animals when necessary, or it may furnish medical treatment for impounded animals.

13.205.02 Conditions Necessitating impounding Without Complaint: The Animal Control Officer shall place all animals which he takes into custody in a designated animal impound facility. The following animals may be taken into custody by an Animal Control Officer and impounded without the filing of a complaint:

- A. Any animal being kept or maintained contrary to the provisions of this Chapter;
- B. Any animal running at large contrary to the provisions of this Chapter;
- C. Any animal which is by this Chapter required to be licensed and is not licensed. An animal not wearing a tag shall be presumed to be unlicensed for purposes of this subsection;
- D. Any abandoned animal;
- E. Animals which are not vaccinated for rabies in accordance with the requirements of this Chapter; or
- F. Any vicious animal not in compliance with Section 13.206.

13.205.03 Information Maintained: The impounding of any animal in this Chapter shall require the

following information to be kept by the Division of Animal Control:

- A. Complete description of the animal, including tag numbers if any;
- B. The manner and date of impound;
- C. The location of the pickup and name of the officer picking up the animal;
- D. The manner and date of disposal;
- E. The name and address of the redeemer or purchaser;
- F. The name and address of any person relinquishing an animal to the impound facility;
- G. All fees received; and
- H. All expenses accruing during impoundment.

13.205.04 Disposition: Animals shall be impounded for a minimum of five (5) days before further disposition, unless relinquished by the owner or custodian for the express purpose of destruction. Reasonable effort shall be made to notify the owner of any animal wearing a license or other identification during that time. Notice shall be deemed given when sent to the last known address of the listed owner.

13.205.05 Destruction: All dogs and cats, except for those quarantined or confined by court order, held longer than the minimum impound period, and all dogs and cats voluntarily relinquished to the impound facility, may be destroyed or sold as the Animal Control Division or Animal Control Officer shall direct. Any licensed animal impounded and having or suspected, of having serious physical injury or contagious disease requiring medical attention, may, without waiting the minimum impound period, in the discretion of the Animal Control Division or Animal Control Officer, be released to the care of a veterinarian or destroyed for humane reasons, provided consent be obtained in advance from the owner or custodian, if known and available.

13.205.06 Redemption: The owner of any impounded animal or his authorized representative may redeem such animal before disposition as provided in subsection 13.205.05 of this Section, provided he pays:

- A. The impound fee;
- B. The daily board charges;
- C. Veterinary costs incurred during the impound period, including rabies vaccination; and
- D. License fee, if required.

13.205.07 Fees For Impound: Impound fees shall be fifteen dollars (\$15.00) for the first confinement and thirty dollars (\$30.00) for a subsequent confinement; board charges shall be five dollars (\$5.00) per day.

13.205.08 Disposition Of Unclaimed And infected Dogs: All impounded dogs not redeemed within five

(5) days of the date of impounding may be destroyed or sold to the person first making written request for purchase at such price as may be deemed agreeable. In the case of dogs severely injured or having contagious disease other than rabies and which in the Animal Control Director's judgment are suffering and recovery is doubtful, the Animal Control Director may destroy the dog without waiting the five (5) day period.

13.205.09      **Interference With Impounding Prohibited:** It shall be unlawful for any person to hinder, delay, interfere with or obstruct the Animal Control Director or any of his assistants while engaging in capturing, securing or taking to the dog pound any dog liable to be impounded, or to break open or in any manner directly or indirectly aid, counsel or advise the breaking open of any dog pound or ambulance, wagon or other vehicle used for the collecting or conveying of dogs to the dog pound.

13.206      **VICIOUS ANIMALS:**

13.206.01      **Prohibited:** It shall be unlawful for any person to own and possess a vicious dog within the City as defined in this Chapter. Whenever a prosecution for this offense is commenced under this Section, the dog so involved may not be redeemed, pursuant to the provisions of this Chapter, while waiting final decision of the court as to the disposition to be made of such dog.

13.206.02      **Disposition:** Upon the trial of any offense under this Section, the court may, upon conviction and in addition to the usual judgment of conviction, order the animal control officer or other authorized personnel of the City to put the dog to death or may order such other disposition of the dog as will protect the inhabitants of the City.

13.207      **CRUELTY PROHIBITED:**

13.207.01      **Prohibited:** Cruelty to animals is prohibited. Cruelty shall consist of those acts designated in Utah Code Annotated section 76-9-301, together with injurious hobbling and malicious impounding.

13.207.02      **Striking With Motor Vehicle:** The operator of a motor vehicle that strikes and injures any domestic animal shall immediately stop and give such aid as can reasonably be rendered. In the absence of the owner, he shall also immediately notify the Animal Control Division, furnishing requested facts relative to the incident. Emergency vehicles are exempted from the requirements of this provision.

13.207.03      **Birds:** It shall be unlawful for any person to take or kill any bird or to rob or destroy any nest, eggs or young of any bird.

13.208      **SALE OF ANIMALS:**

It shall be unlawful for any person to sell, offer for sale, barter or give away any baby rabbits or fowl under two (2) months of age in any quantity less than six (6). Such animals shall not be artificially dyed or colored. It shall be unlawful for any person to offer a live animal as a premium, prize, award, novelty or incentive to purchase merchandise.

13.209      **WILD ANIMALS:**

It shall be unlawful for any person to sell, offer for sale, barter, give away, keep or purchase any wild animal which is not domesticated, or an animal belonging to an endangered species, except for the animal shelter, a zoological park, veterinary hospital, circus, sideshow, amusement show or facility for education or scientific purposes if protective devices adequate to prevent such animal from escaping or injuring the public are provided.

- 13.210           ESTRAYS:
- 13.210.01       Trespassing Animals; Damaging; Impounding: If any cattle, horses, asses, mules, sheep, goats or swine shall trespass or do damage upon the premises of any person, the party aggrieved, whether he be the owner or the occupant of such premises, may recover damages by a civil action against the owner of the trespassing animals or by detaining and impounding the animals in the manner provided.
- 13.210.02       Owner Notified: The person detaining the animals must, if the owner of the same be known to him and if he resides within ten (10) miles of the place of the trespass, immediately deliver to such owner, or leave at his place of residence if he cannot be found, a copy of such certificate of appraisal; but if the owner does not live within ten (10) miles of the place of trespass, the party detaining the animals may at his option deliver a copy of such certificate to the owner in person, or deposit the same in the nearest post office in a registered letter addressed to said owner. He shall be entitled to charge forty-five cents (\$0.45) a mile one way for the first ten (10) miles necessarily traveled in delivering such certificate, and forty-five cents (\$0.45) for each additional mile, to be taxed as costs against the animals.
- 13.210.03       Failure To Notify Waives Damages: If the party detaining any animals shall fail to deliver them within forty-eight (48) hours, or shall fail to deliver to the owner of the animal, if known, a copy of the certificate of appraisal within twenty four (24) hours after he receives the same or to deposit the same in a post office as herein provided, he shall not be entitled to recover damages under the provisions of this Section.
- 13.210.04       Notice Of Sale Of Detained Animals: As soon as any such animals are delivered to the animal control officer, he shall immediately proceed to advertise the same as hereinafter provided, except when the owner is known and has been notified, in which case he shall hold said animals forty-eight (48) hours before advertising the same. He shall advertise in a newspaper published in and having general circulation in the County, by publishing a notice in at least one issue of said paper, by posting notices in three (3) public places in the City, one of which shall be at or near the post office, and he shall deliver a copy of the same to the County Clerk or send the same by deputy or by registered mail. The County Clerk should preserve such notice and post a copy thereof. The notice herein provided for shall state the time when the damage was done and the amount thereof, the name of the party damaged, a description of the animals, including all visible marks and brands, and the day, hour, and place at which such animals will be sold, which shall be not less than ten (10) nor more than twenty (20) days from the time of posting such notice.
- 13.210.05       Fee For Impound: A twenty-five dollar (\$25.00) impound fee will be charged per animal per impound and forty dollars (\$40.00) thereafter, with an additional five dollars (\$5.00) per day for boarding charges per animal.

- 13.210.06      Owner May Pay And Take Animals; Disputed Appraisal: The owner of any trespassing animals taken up under the provisions of this Section may at any time before the sale thereof claim and take such animals away, upon paying the accrued costs; and if such animals are included in a lot or group of animals belonging to other parties against which the costs are assessed as a whole, he shall pay his proportion of the total amount of costs assessed against such animals, according to the number of animals he owns when compared with the number of the entire lot or group.
- 13.210.07      Bill Of Sale: If such animals are not claimed and taken away by the owner, the animal control officer shall, at the time and place set forth in the notice of sale, proceed to sell such animals, one at a time, to the highest cash bidder. If the owner of any lot of animals to be sold is known, the animal control officer shall sell only enough of said animals to pay the costs, the remainder may be turned over to the owner at any time thereafter; but if the owner be unknown, the animal control officer shall proceed to sell all of said animals so advertised for sale. He shall execute and deliver a bill of sale therefore, and file a copy with the County Clerk as herein before provided.
- 13.210.08      Redemption Within Ninety Days: The owner of any trespassing animals sold under the provisions of this Section may, at any time within ninety (90) days of the date of such sale, redeem such animals from the purchaser or assignee having the same in his possession, upon paying to such purchaser or assignee the sum for which such animals were originally sold, together with an additional ten percent (10%) and reasonable compensation for care and keeping of the same. If such purchaser or assignee refuses to give up such animals upon the owner proving his title to the same and upon his tendering the amount due as herein provided, such owner may maintain an action at law to recover the same; provided, that the purchaser or any assignee who has disposed of such animals shall not be liable, to such owner in any amount. If redemption of such animals is not made within ninety (90) days after the date of such sale, such sale shall be absolute and shall vest the title to such animals in the purchaser or assignee. Any person selling or disposing of any such animal within ninety (90) days of its sale under the provision of this Section shall notify the purchaser of the same of the date of the original sale and the amount paid for such animal at that time, if he fails to do so, he shall be liable for any loss that may accrue to such purchaser by reason of such animal being redeemed for an amount less than he paid therefore.
- 13.210.09      Owner Entitled To Residue Of Proceeds: If any estrays or trespassing animals sold under the provisions of this Section shall, within a period of six (6) months following the date of sale, be claimed and proved to be the property of any person, it shall be the duty of the City Treasurer at the expiration of such time to pay the money received for such animals to the owner thereof, less the expense of taking, keeping and selling the same. In the event such animals are not claimed as aforesaid, such money shall become the property of the City; provided, that in case there is a contest between two (2) or more persons claiming to be the owners of any such animals, the City Treasurer shall pay the residue to the party who shall establish by action his right to the same.
- 13.210.10      Record Of Trespassing Animals: The animal control officer shall keep an accurate record of all trespassing animals received by him, which record shall contain all the items required by this Section, together with the names of the injured party and the owner of the animals, and all other matters necessary to a complete account of the transaction.

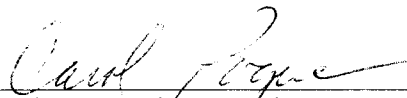
- 13.210.11 Retaking Animal Unlawfully: It shall be unlawful for anyone to take any animal out of the possession of anyone lawfully holding the same under the provision of this Section, either by stealth, force, fraud or to intercept or hinder any person lawfully taking or attempting to take up such animals.
- 13.211 PENALTY:
- 13.211.01 Any person violating the provisions of this Chapter, either by failing to do those acts required herein or by doing any act prohibited herein, shall be guilty of an infraction, punishable as follows:
- A. By a fine in an amount of \$0.00 to \$300.00 for each offense, as determined by a court of competent jurisdiction; or
  - B. By order of removal, requiring any dog to be removed from the City; or
  - C. Any combination of fine, restitution or removal, as determined by any court of competent jurisdiction.
- 13.211.02 Separate Offense Each Day: Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

This Ordinance No. 02-09-06 shall be effective, with City Council passage and approval, on the 9<sup>th</sup> day of February, 2006.



Ken Powell  
Toquerville City Mayor

Attest:



Carol Pogue, City Recorder



*Note: City Council was unanimous in favor. CP.*