

ANIMAL CONTROL ORDINANCE

ORDINANCE NO. 06-14-21-1

AN ORDINANCE AMENDING THE CITY'S ORDINANCE REGULATING THE LICENSING AND CONTROL OF DOGS AND OTHER ANIMALS WITHIN EUREKA CITY.

WHEREAS the City of Eureka desires to promote uniform enforcement of its ordinance governing the licensing and control of dogs and other animals; and

WHEREAS, Title 10 Chapter 3 and § 10-8-84 of the Utah Code authorizes the City Council to pass ordinances which are reasonably and appropriately related to the providing for the public health, safety, morals, convenience, order, prosperity, and general welfare of the City and its residents; and

WHEREAS the City of Eureka seeks to amend Ordinance No. 980, enacted on April 28, 2003, as detailed herein.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF EUREKA CITY, THAT THE FOLLOWING "ANIMAL CONTROL ORDINANCE" BE ENACTED AS FOLLOWS TO REPLACE THE EXISTING ORDINANCE NO. 980.

I. THE FOLLOWING SHALL BE ENACTED TO REPLACE PART 13-240 OF EUREKA CITY MUNICIPAL CODE.

SECTION 13-240. DOMESTIC DOGS AND CATS

SECTION 13-241. DEFINITIONS:

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

ANIMAL CONTROL OFFICER: The custodian selected by the City Council to be responsible for the operation of the animal shelter and/or administration of violations of the provisions of this chapter.

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

CAT: Any male, female, spayed or neutered domesticated cat of any age.

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

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

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

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

UNLICENSED ANIMAL: A dog or cat 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 DOG: A dog that has bitten without provocation or has a known propensity to attack or bite human beings or domestic animals, or protected wildlife.

13-242. ANIMAL CONTROL OFFICER:

A. Created: The position of animal control officer is hereby created. The City Council shall have the authority to appoint an animal control officer for the city.

B. Duties: The animal control officer shall perform the following duties:

1. Carry out and enforce the provisions of this chapter.
2. Take into his possession and impound all strays running at large and dispose of the same as hereinafter provided.
3. Enforce the licensing of and control all dogs and cats within the city as hereinafter provided.
4. File complaints in the courts against any person, firm or corporation failing to comply with the provisions of this chapter and obtain licenses when required thereunder.
5. Capture and secure all dogs and cats found running at large contrary to the provisions of this chapter and impound such dogs in a humane manner.
6. Provide for a good and sufficient animal shelter in which all animals duly committed to his charge or otherwise impounded by him shall be maintained.
7. Enter a description thereof in records kept for that purpose stating the kind of animal, the circumstance under which received or impounded, and a description thereof sufficient to provide identification, the costs expended for the maintenance of the animal and amounts received arising out of maintenance or sale of animals.

C. Shall Charge Fees For Services: The animal control officer shall charge, and the owners of animals taken into his possession for impound, disposal or other services shall pay, such fees and charges for services performed by the pound or animal control officer as the city council shall establish from time to time by resolution. All fees received by the animal control officer shall be paid over to the city treasurer.

D. Interference Prohibited: It shall be unlawful for any person to interfere, molest, hinder or obstruct the animal control officer or any of his authorized representatives in the discharge of their duties as herein prescribed.

13-243. ANIMAL SHELTER/POUND: The city council may contract with some humane person as animal control officer, with an adjoining municipality, or with the county, for the purpose of providing suitable premises and facilities to be used by the city as the animal shelter. It shall be maintained in some convenient location and shall be sanitary and so operated as to properly feed, water and protect the animals from injury.

13-244. LICENSING REQUIREMENTS:

A. Animal Licensing:

1. Time For Obtaining License; Effective Date:

a. It is unlawful for any person to keep, harbor or maintain any dog or cat six (6) or more months old unless such animal has been registered and licensed in the manner herein provided.

b. The fee due and payable pursuant to this chapter shall be due May 30 and shall be delinquent after June 1 of each year. A penalty of twenty percent (20%) shall be added to delinquent payments.

c. The owner of any newly acquired dog or cat of licensing age or of any dog or cat which attains licensing age after May 30 of any year, shall make an application for registration and license within thirty (30) days after such acquisition or the animal attains the above stated age; provided, that the license fee shall be one-half ($\frac{1}{2}$) of that required for new applications received after November 1 of any year.

2. Application; Expiration: Application for registration and licensing shall be made to the animal control officer or such other person as the city council may authorize to receive such applications. The owner shall state at the time application is made for such license, his name and address and the sex, breed and color of each dog or cat owned or kept by him or her.

B. License Fees:

1. Established: No dog or cat license shall be issued by the city unless the fee required herein is paid. Fees shall be established by resolution of the city council.

2. Kennel Fees: Anyone owning, keeping, harboring or maintaining three (3) or more dogs over the age of three (3) months shall be considered operating a dog kennel and shall be required to pay an annual kennel license fee established by resolution of the city council. An owner of three to five dogs shall apply for a hobby kennel permit. A person who has purchased canines registered to them and who uses them for monetary gain shall be deemed a professional kennel. Requirements for a Hobby Kennel or Professional Kennel are found in Eureka City Kennel Ordinance, Ordinance No. 04-28-03, adopted on April 28, 2003.

3. Expiration: The license fee shall cover the calendar year in which the license was issued, expiring on December 31 of the year of issuance, regardless of the date when issued.

C. License Tag:

1. Issuance:

a. A dog or cat license shall be issued by the animal control officer or such other person as the city council may authorize.

b. Upon payment of the license fee, the city recorder shall issue to the owner a license certificate and a metallic tag for each dog or cat so licensed. The tag shall be changed every year and shall have stamped thereon the year for which it was issued and the number corresponding with the number on the certificate. Every dog and cat owner, except those operating a professional kennel, shall provide each dog with a collar to which the license tag shall be affixed, and shall see that the collar and tag are constantly worn. It shall be unlawful to deprive a registered dog of its collar and/or tag.

2. Duplicate Tag: In case a dog tag is lost or destroyed, a duplicate will be issued by the city recorder upon presentation of a receipt showing the payment of the license fee for the current year and the payment of one dollar (\$1.00) for such duplicate.

3. Tag Not Transferable: Dog and cat tags shall not be transferable from one animal to another, and no refunds shall be made on any animal license fee because of death of the animal, or the owner leaving the city, before expiration of the license period.

D. Licensing Exemptions:

1. Temporary Residents: The provisions of this section shall not be intended to apply to dogs whose owners are nonresidents temporarily within the city, nor to dogs brought to the city for the purpose of participating in any dog show, or to commercial kennels.

2. Guide Dogs: Dogs used as guides for blind persons and commonly known as seeing eye dogs shall be licensed and registered as other dogs hereinabove provided; except that the owner or keeper of such dog shall not be required to pay any fee therefore.

13-245. CRUELTY TO ANIMALS PROHIBITED:

It shall be unlawful for any person to:

A. Treat In Cruel And Inhumane Manner: Overdrive, overload, drive when overloaded, overwork, torture, cruelly beat, mutilate, or needlessly kill, or carry or transport in any vehicle or other conveyance in a cruel and inhumane manner, any animal, or cause any of these acts to be done.

B. Abandon: 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.

C. Kill Or Poison: Wilfully 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.

D. Fail To Provide Care: Fail 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.

E. Intentionally Exhibit: 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.

F. Maintain Place Of Exhibition: Maintain any place where fowl or any animals are suffered to fight upon exhibition or for sport upon any wager.

13-246. VICIOUS DOGS:

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 attack, chase 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 or by growling and threatening and aggressively approaching. Violation of this provision shall be a Class B misdemeanor subject to fines and penalties allowed under Utah state law.

2. Owner Liability: The owner in violation of subsection A1 of this section shall be strictly liable for 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: The following shall be considered in mitigating the penalties or damages or in dismissing the charge:

- a. That the dog was properly confined on the premises.
- b. That the dog was deliberately or maliciously provoked.

B. Unlawful to Own and Possess: It shall be unlawful for any person to own and possess a vicious dog within the city. 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 awaiting final decision of the court as to the disposition to be made of such dog.

C. Disposition After Conviction Of Offense: 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.

13-247. CONTROL OF RABIES AND RABID ANIMALS:

A. Rabies Vaccination Required: It shall be unlawful for the owner of any dog or cat to suffer, allow, or permit such animal to be or go upon any sidewalk, street, alley, public place, or square within the city without first having had such animal vaccinated every two (2) years against rabies, as provided in subsection B of this section, within the past two (2) years, and without there being on such animal a collar or harness with a tag thereon showing that such animal has been so vaccinated.

B. Vaccination By Licensed Veterinarian; Exception: Every owner of any dog or cat over the age of six (6) months within the city shall have the animal 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 animal, a tag showing that such vaccination has been done; provided, that the city council may, by resolution, provide that the owners of any animal may themselves purchase serum and vaccinate their own animals. The resolution shall also prescribe the conditions with which the owner must comply to obtain the tag herein required.

C. Reporting of Rabid Animals: Anyone having knowledge of the whereabouts of an animal known to have or suspected of having rabies shall report the fact immediately to the animal control officer. The animal control officer shall likewise be notified of any person or animal bitten by a rabid or suspected rabid animal.

D. Biting Animal Quarantined: Any dog or other animal of a species subject to rabies which is known to have bitten or injured any person so as to cause an abrasion of the skin shall be placed in confinement under observation of a veterinary hospital or the city pound and shall not be killed or released until at least fourteen (14) days after the biting or injury has occurred in order to determine whether or not the animal has rabies. If the animal dies or has been killed, its head shall be removed and immediately taken to the state health laboratory to be examined for rabies.

E. Bitten Animal Quarantined: Any animal of a species subject to rabies which has been bitten by a known rabid animal or has been in intimate contact with a rabid animal shall be isolated in a suitable place approved by the animal control officer for a period of one hundred twenty (120) days or destroyed.

13-248. ANIMALS AT LARGE:

No cattle, horses, mules, sheep, goats or swine shall be allowed to run at large or to be herded, picketed or staked out upon any street, sidewalk or other public place within the limits of the city, and all such animals so found may be impounded. Nothing herein contained shall be so construed as to prevent any person from driving cows, horses, mules or other animals from outside the city limits to any enclosure within the city limits or from any enclosure in the city to a place outside the city or from one enclosure to another within limits of the city.

13-249. DOGS AND CATS AT LARGE:

A. Unlawful: It shall be unlawful for the owner or keeper of any dog or cat to permit such animal to run at large. The fine for first, second, and third offenses shall be determined by resolution adopted by the City Council.

B. Private Property: It shall be unlawful for an owner of a dog or cat to permit such animal to go upon or be upon the private property of any person without the permission of the owner or person entitled to the possession of such private property.

C. Violation Regardless Of Precautions: The owner of any dog or cat running at large shall be deemed in violation of this section, regardless of the precautions taken to prevent the escape of the dog and to prohibit it from running at large. A violation of this subsection is a class C misdemeanor, subject to penalty as provided by Utah state law

D. Declared Nuisance: Any dog or cat running at large in violation of the provisions of this section is hereby declared to be a nuisance and a menace to the public health and safety, and the animal shall be taken up and impounded as provided in this chapter. In addition to an animal being a nuisance if it runs at large, any animal that does any of the following shall be deemed a nuisance:

1. Causes damages to the property of anyone other than its owner or custodian.
2. Causes unreasonable fouling of the air by odors.
3. Defecates on any public street, sidewalk, park, or building, or on any private property without the consent of the owner of the property, unless the owner or custodian of the animal shall immediately remove any such defecation to his own property.
4. Barks, whines, or howls or makes other disturbing noises in an excessive or continuous fashion.
5. Harasses passersby or chases passing vehicles.
6. Is determined by the Juab County Sheriff's department to be a public nuisance by virtue of being offensive or dangerous to the public health, welfare or safety.
7. Any animals that, by virtue of the number maintained, are determined by the Juab County Sheriff's department to be offensive or dangerous to the public health, welfare or safety.

13-250. PROHIBITED ACTS AND CONDITIONS:

A. Disposition Of Dead Animals; Violation: The owner of any animal or fowl that has died or been killed shall remove or bury the carcass of such animal within ten (10) hours after its death; provided, that no horse, cow, ox, or other animal shall be buried within the closely inhabited portions of the city. A violation of this subsection is a class C misdemeanor, subject to penalty as provided by State law.

B. Diseased Animals: It is a class C misdemeanor, subject to penalty as provided by State law, 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.

C. Sale Of Diseased Animals: It is a class C misdemeanor, subject to penalty as provided by State law, 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.

D. Female Dogs In Heat: The owner of a female dog in heat shall cause such dog to be penned or enclosed in such a manner as to preclude other dogs from attacking such female dog or being attracted to such female dog so as to create a public nuisance.

E. Harboring Stray Dogs: It shall be unlawful for any person to harbor or keep within the city any lost or stray dog. Whenever any dog shall be found which appears to be lost or stray, it shall be the duty of the finder to notify the city recorder or animal control officer, who shall impound for running at large contrary to the terms of this chapter. If there shall be attached to such dog a license tag for the then current fiscal year, the animal control officer shall notify the person to whom such license was issued, at the address given on the license.

F. Loud or Offensive Animals: No person shall own, keep or harbor any dog or cat 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 a class C misdemeanor, subject to penalty as provided by State law, and such is hereby declared to be a nuisance, and each day a violation is permitted to exist or continue shall constitute a separate offense.

G. Trespassing Animals: It shall be unlawful for any owner or caretaker of any domestic fowl or animal to permit such fowl or animal to trespass upon the premises of another person.

13-251. IMPOUNDING:

A. Duty Of Official To Impound: It shall be the duty of every law enforcement officer or other designated official to apprehend any dog or cat found running at large, not wearing its tag, or which is in violation of this chapter and to impound such animal in the pound or other suitable place. The animal control officer, or some other designated official, upon receiving any dog or cat, shall make a complete registry, entering the breed, color and sex of such animal, and whether licensed. If licensed, he shall enter the name and address of the owner and number of the license.

B. Interference With Impounding Prohibited: It shall be unlawful for any person to hinder, delay, interfere with, or obstruct the animal control officer or any of his assistants while engaging in capturing, securing or taking to the animal shelter any dog or cat liable to be impounded, or to break open or in any manner directly or indirectly aid, counsel, or advise the breaking open of any animal shelter or ambulance, wagon, or other vehicle used for the collecting or conveying of animals to the animal shelter.

C. Records Maintained: The animal control officer shall keep a record of each animal impounded by him, the date of receipt of such animal, the date and manner of its disposal and if

redeemed, reclaimed, or sold, the name of the person by whom redeemed, reclaimed, or purchased, the address of such person, the amounts of all fees received or collected for or because of the impounding, reclaiming or purchasing thereof, together with the number of any tag and the date of any tag exhibited or issued upon the redemption or sale of such animal.

D. Redemption Of Impounded Animals: Any animal impounded as a licensed or unlicensed dog or cat may be redeemed and taken from such animal shelter by the owner or any authorized person, upon exhibiting to the animal control officer or person having charge of said animal shelter, a certificate of registry as provided in subsection A of this section, showing that the license imposed by this chapter has been paid for such animal and upon paying the person in charge of the animal shelter an impounding fee established by resolution of the city council. All impounded animals not redeemed within five (5) days may be subject to adoption. All animals that are not adopted or redeemed in the required time shall be disposed of in a humane manner.

E. Disposition Of Unclaimed, Severely Injured And Infected Animals: All impounded animals not redeemed within five (5) days of the date of impounding may be destroyed or adopted to the person first making request for adoption. In the case of animals severely injured or having contagious disease other than rabies and which in the animal control officer's judgment are suffering and recovery is doubtful, the animal control officer may destroy the animal without awaiting the five (5) day period.

13-252. LIMITATIONS ON THE KEEPING AND MAINTENANCE OF ANIMALS:

A. Legal Nonconforming Animal Rights: Lots containing animal rights which are legally nonconforming, or which hereby become legally nonconforming, with regards to property size or the presence of animal rights shall maintain those rights herefrom in the nature of which they were permitted, unless abandoned or discontinued.

B. General Rights Granted: The rights granted according to this overlay are the pasturing, care, and keeping of domesticated animals (excepting hogs, or other closely related animals) for exclusive use and enjoyment of the residing family.

C. Household Pets: Small animals and fowl may be kept as household pets in all zones subject to the following conditions:

1. Animals or fowl must be kept in pens, or otherwise secured, unless housed within the dwelling unit.
2. No more than three (3) cats and no more than three (3) dogs per animal control provisions of the same species shall be kept, excluding dependent young under six (6) months of age.
3. All pens, coops, and structures shall be kept clean and free from objectionable odor.

II. SEVERABILITY

If any provisions or clause of this chapter or its application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses, or applications

which can be implemented without the invalid provision, clause, or application. To this end, the provisions of this chapter are declared to be severable.

III. PRIOR OR CONFLICTION PROVISIONS REPEALED

This Ordinance repeals and replaces any prior or conflicting provisions that were previously adopted by the City.

IV. EFFECTIVE DATE

This amendment to the ordinance shall become effective on the date passed by the City Council of Eureka.

PASSED AND ADOPTED THIS 14th DAY OF JUNE, 2021.

MAYOR OF EUREKA:


J. NICHOLSON CASTLETON

ATTEST:


CITY RECORDER