

**ORDINANCE NO.**

**AN ORDINANCE OF OGDEN CITY, UTAH, AMENDING THE OGDEN MUNICIPAL CODE BY AMENDING SUBSECTION 13-2-2.B PERTAINING TO LICENSING PROVISIONS; AMENDING SECTION 13-2-6 PERTAINING TO RESTRAINT, RULES AND REGULATIONS; AMENDING SECTION 13-2-8 PERTAINING TO DANGEROUS DOGS; AND BY PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING AFTER FINAL PASSAGE.**

**The Council of Ogden City hereby ordains:**

**SECTION 1.** Subsection amended. Subsection 13-2-2.B of the Ogden Municipal Code is hereby amended to read and provide as follows:

- B. **[Application; Forms:]** The owner shall state at the time application is made for such license, and upon printed forms provided for such purpose, the owner's name, ~~and~~ address and telephone number, ~~and~~ the name, breed, color, sex and age of each dog, ferret or cat owned or kept, and the address where such animal is usually kept if different from the address of the owner. The owner shall provide written proof that the owner is at least eighteen (18) years of age, or at least sixty (60) years of age, if applying for a discount. The provisions of this section are not to apply to dogs or cats whose owners are temporarily within the city, nor to dogs or cats brought into the city for the purpose of participating in any dog or cat show, nor to commercial kennels or catteries licensed as a business within the city. However, any dog or cat residing on the premises of a commercial kennel or cattery must be individually licensed by the owner of the kennel, unless the animal is being temporarily housed or boarded.

**SECTION 2.** Section amended. Section 13-2-6 of the Ogden Municipal Code is hereby amended to read and provide as follows:

**13-2-6: [RESTRAINT; RULES AND REGULATIONS:]**

- A. **[Dogs And Cats Running At Large Prohibited:]** All dogs and cats shall be kept from running at large by humane restraint. Every owner of a dog or cat shall keep the same securely confined on his/her premises; provided, that this section shall not prevent the owner from having that dog or cat on the streets and in public places of the city when the dog or cat is controlled by adequate chain, cord or leash.
- B. **[Livestock Running At Large Prohibited:]** No livestock shall be allowed to run at large or be picketed or staked out or driven upon any street, sidewalk, airport or any other public place within the limits of the city, except by permission of the chief of police and all such animals so found running at large, picketed or staked out without the owner thereof having

first secured a permit from the chief of police may be impounded and taken to the shelter. Permits shall be issued by the chief of police only after he has determined that the health, safety, peace and quiet, and property of the citizens of the city will not be endangered or damaged by such animals.

- C. **[Animals In Vehicles:]** No driver of a motor vehicle shall transport or carry on any public highway or street any dog in a motor vehicle unless the animal is safely enclosed within the vehicle or protected by a shell, container, cage or other device that will prevent the dog from falling from, being thrown from or jumping from the motor vehicle.
- D. **[Confinement Of Female Dogs Or Cats:]** Any owner or person having charge, care, custody or control of any female dog or cat in estrus shall, in addition to restraining such dog or cat from running at large, cause such a dog or cat to be constantly confined in a humane manner in a building or secure enclosure so as to prevent it from attracting by scent or coming into contact with other dogs or cats and creating a nuisance, except for a planned breeding.
- E. **[Vicious Or Dangerous Animals:]** Any known vicious, dangerous or threatening animal shall be restrained on the owner's premises in such a way as to protect any person lawfully entering or passing such premises. Every vicious or dangerous animal shall be muzzled or caged whenever off the premises of its owner.
- F. **[Unlawful Attacks:]** The owner, keeper, or harbinger of any animal that ~~It shall be unlawful for any animal to~~ attacks, bites, chases, or threatens any person, any domestic animal or any species of wildlife, shall be guilty of a class B misdemeanor.
- G. **[Unlawful Restraining:]** In addition to the provisions regarding tethering of dogs set forth elsewhere in this section, i~~It~~ is 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 or onto the premises of another person, unless the owner or lessee of the affected property has given permission. No animals shall be chained, staked out or tethered along alleys, sidewalks or along public streets or easements.
- H. **[Fowl Running At Large:]** It is unlawful for the owner of any domestic fowl, such as turkeys, ducks, geese, chickens, peacocks, pigeons and any game fowl to permit such fowl to trespass or go upon the premises of another or to run at large within the limits of the city.
- I. **[Unlawful Straying:]** It is unlawful for any person, owning or having the custody, possession or control of any animal of a class of livestock to allow, either negligently or with specific intent, the animal to run at large in or about a public property or roadway, where such is not otherwise permitted by law, or to otherwise permit the animal to be herded, pastured or to go upon the land of another without permission.
- J. **[Fencing:]** All fencing of property, where a class of livestock are kept, shall be of sufficient construction to prevent the escape of or injury to the animals being confined, within the fencing. The fencing shall be maintained so that no part of such fence, absent extraordinary circumstances, may be broken, damaged or in any way create the possibility of injury to the confined animal or to allow escape thereof.

K. **[Liability:]** The owner or person charged with responsibility for any animal running at large or otherwise improperly restrained shall be strictly liable for any violation under this section, regardless of whether or not such owner or person knows that the animal is running at large or that is otherwise in violation.

**L. [Unlawful Tethering of Dogs:]**

1. As used in this subsection, tether means to restrain a dog by tying the dog to any object or structure, including without limitation a house, tree, fence, post, garage, or shed, by any means, including without limitation a chain, rope, cord, leash, or running line. Tethering shall not include using a leash to walk a dog.

2. It shall be unlawful for any person to tether a dog while outdoors, except when all of the following conditions are met:

(a) The tether is connected to the dog by a buckle-type collar or a body harness made of nylon or leather, not less than one inch in width.

(b) The tether has the following properties: it is at least five times the length of the dog 's body, as measured from the tip of the nose to the base of the tail; it terminates at both ends with a swivel; it does not weigh more than 1/8 of the dog 's weight; and it is free of tangles.

(c) The dog is tethered in such a manner as to prevent injury, strangulation, or entanglement.

(d) The dog is not outdoors during a period of extreme weather, including without limitation extreme heat or near-freezing temperatures.

(e) The dog has access to water, shelter, and dry ground.

(f) The dog is at least six (6) months of age.

(g) The dog is not sick or injured.

(h) Pulley, running line, or trolley systems are at least 15 feet in length and are less than 7 feet above the ground.

(i) If there are multiple dogs, each dog is tethered separately.

(j) The dog shall be tethered for a maximum of ten (10) hours in a twenty-four (24) hour period.

**SECTION 3.** Section amended. Section 13-2-8 of the Ogden Municipal Code is hereby amended to read and provide as follows:

### **13-2-8: [DANGEROUS DOGS:]**

#### **A. [Definitions:]**

DANGEROUS DOG: As used in this chapter, shall mean any dog:

1. Which has exhibited a propensity, tendency or disposition to attack, to cause injury or to otherwise threaten the safety of human beings or domestic animals; or
2. Which, without provocation, chases or approaches a person upon the streets, sidewalks or any public or private property in a menacing fashion or apparent attitude of attack; or
3. Which has severely injured or killed a domestic animal, without provocation, while not properly restrained on the owner's or possessor's property; or
4. Which has attacked, bitten or inflicted a physical injury on a human being without provocation; or
5. Which, with or without provocation, has inflicted severe injury upon or caused the death of a human being; or
6. Which is owned or harbored primarily or in part for the purpose of dogfighting or any dog used for dogfighting. A dog shall not be found to be owned or harbored for the purpose of dogfighting solely on the basis of an exercise program or the use of exercise equipment.

POTENTIALLY DANGEROUS DOG: As used in this chapter, shall mean any dog:

1. Which has been found running at large and impounded, or whose owner has received citations for violations of title 13, "Animals," of this code, two (2) or more times within any twelve (12)-month time period; or
2. Which, without provocation, acts in a highly aggressive manner within a fenced yard/enclosure and appears to a reasonable person able to jump over or escape; or
3. Which, without provocation, has tried to attack a person or domestic animal if it is restrained by a leash, fence or other means and it is clear that only the presence of the leash, fence or other means of restraint prevented the dog from immediate attack.

PROVOCATION: Any act towards a dog done with the intent to tease, torment, abuse, assault or otherwise cause a reaction by the dog; provided however, that any act by a person done in self-defense shall not be considered to be a provocation. "Provocation" shall also include any act by a dog in defense of a litter while the dog was properly confined on the owner's property.

**B. [Determination; Abatement:]**

1. **[Options:]** If the animal services manager determines that a dog is a "dangerous dog", as defined herein, the animal services manager shall either proceed to abate the animal under subsection 13-2-7B of this chapter, attempt to obtain the written consent of the dog's owner to euthanize the dog, or require the owner to register and restrain the dog in accordance with this chapter. If the animal services manager determines that a dog is a "potentially dangerous dog", as defined herein, the animal services manager shall provide written notice to the owner or keeper of the dog, and shall require the owner to register and restrain the dog in accordance with this chapter.

2. **[Aggravating Circumstances:]** If aggravating circumstances are determined to exist, the animal services manager shall immediately proceed with abatement proceedings and shall not provide the owner with the option of registration. Aggravating circumstances may include any of the following circumstances:

a. That the unprovoked attack resulted in the death or severe injury of a human being. "Severe injury" means any injury that results in fractured bones or maiming.

b. That the dog in question has previously, without provocation, attacked, bitten or inflicted physical injury on a human being or domestic animal.

c. That the dog has previously been registered to be a dangerous dog or potentially dangerous dog and either repeats the same or similar behavior or whose owner fails to comply with the ordinances pertaining to registration or control of dangerous dogs or potentially dangerous dogs.

3. **[Exceptions:]** No dog shall be considered dangerous or potentially dangerous if the finding is based solely on the fact that the dog attacked, bit or menaced a person committing a crime against person or property at the time of the attack.

4. **[Owner Knowledge:]** It shall not be necessary, in order to sustain a charge of maintaining a nuisance to prove that the owner knew that such dangerous dog possessed the propensity to attack, cause injury or threaten persons or other animals where the owner continues to maintain the dangerous dog.

5. **[Hearing:]** An owner of keeper of a dog that is determined to be a "potentially dangerous dog" pursuant to this subsection may appeal such decision before a hearing officer by filing a written application in the office of the city recorder for a hearing and present and contest such determination before a hearing officer. Such application shall be filed within ten (10) calendar days of the date of the notice of decision and shall be accompanied by a twenty five dollar (\$25.00) filing fee. The hearing shall be conducted as provided in title 4, chapter

4, article A, "Administrative Hearings," of this code. The burden of proving that a dog should not be considered a "potentially dangerous dog" shall be on the appellant.

**C. [Registration:]**

1. **[Required:]** It is unlawful for an owner to have a dangerous dog or potentially dangerous dog within the limits of the city without a certificate of registration issued by the animal services manager. This action shall not apply to dogs used by law enforcement officials for police work.

2. **[Requirements:]** A dangerous dog or potentially dangerous dog shall not be registered by the animal services manager unless the owner shall meet the following requirements:

a. The owner shall, on or prior to the effective date of such registration, have an enclosure, as described in subsection D1 of this section, for the dangerous dog or potentially dangerous dog on the property where the [~~dangerous~~] dog will be kept or maintained.

b. The owner shall display a sign on the premises warning that there is a dangerous or vicious dog on the premises. The sign shall be clearly visible and capable of being read from the closest public thoroughfare or highway. In addition, the owner shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous dog.

c. The owner shall, at [~~his own~~] the owner's expense, have the licensing number assigned by the city to such dangerous dog or potentially dangerous dog permanently tattooed upon the dog by a licensed veterinarian or person trained by profession as a tattooist. The tattoo shall be placed on the upper left rear thigh of the dog. The animal services manager may otherwise designate the particular location of the tattoo.

d. The owner shall at all times cause the dangerous dog or potentially dangerous dog to wear a collar with a tag of a color and type designated by the animal services manager so that the dog is readily identifiable as a dangerous dog or potentially dangerous dog.

e. The owner shall, at his own expense, have the dangerous dog or potentially dangerous dog spayed or neutered by a licensed veterinarian.

f. The owner shall sign a statement attesting that:

(1) The owner shall abide by the requirements of registration and the ordinances as they pertain to the control of dangerous dogs and potentially dangerous dogs within the limits of the city;

(2) The owner or keeper shall notify the division immediately if a dangerous dog or potentially dangerous dog is on the loose, is unconfined, or has attacked another animal or

a human being. If the dangerous dog or potentially dangerous dog has died, been sold or given away, the owner or keeper shall notify the animal services manager by the end of the next business day and shall also provide the division with name, address and telephone number of the new owner of the dangerous dog or potentially dangerous dog;

(3) The owner or keeper shall maintain and not voluntarily cancel the liability insurance required by subsection C2i of this section during the twelve (12) month period for which licensing is sought, unless the owner or keeper shall cease to own or keep the dangerous dog or potentially dangerous dog prior to expiration of such license; and

(4) The owner shall agree to inspection of the premises in order to ensure compliance with the ordinance controlling dangerous dogs or potentially dangerous dogs.

g. The owner shall pay an annual registration fee as specified in subsection 13-2-3C7 of this chapter. Said fee shall be over and above regular license fees.

h. Any dangerous or potentially dangerous animal must be implanted with microchip identification at the owner's expense as a requirement of registration or relocation.

i. The owner or keeper shall present to the division proof that the owner or keeper has procured liability insurance in the amount of at least ~~twenty five~~ fifty thousand dollars (~~\$25,000.00~~ 50,000.00), covering any damage or injury that may be caused by such dangerous dog or potentially dangerous dog during the twelve (12) month period for which licensing is sought, which policy shall contain a provision requiring the city to be named as an additional insured for the sole purpose that the city shall be notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy. Such proof of insurance shall be in such form as approved by the city's risk manager or city attorney.

**3. [Inspections And Seizure; Authority:]** The animal services manager is hereby empowered to make whatever inquiry is deemed necessary to ensure compliance with the provisions regarding dangerous dogs or potentially dangerous dogs, including inspection of premises in which a dangerous dog is kept, and any animal control officer or peace officer is hereby authorized to seize and impound any dangerous dog or potentially dangerous dogs whose owner fails to comply with the provisions hereof.

**4. [Minors; Parent Responsible:]** If the actual owner of the dangerous dog or potentially dangerous dog is under the age of eighteen (18), the parent or guardian of that minor shall be responsible for compliance with requirements of this chapter regarding registration and control of dangerous dogs or potentially dangerous dogs.

**D. [Control:]**

1. **[Confinement:]** While on the owner's property, a dangerous dog or potentially dangerous dog shall be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the dog from escaping. Such pen or structure must have minimum dimensions of five feet by ten feet (5' x 10'). The pen or structure must have a cement floor with secure sides attached to the bottom and a secure top attached the sides. The enclosure must also provide protection from the elements for the dog.

2. **[Off Premises:]** A dangerous dog or potentially dangerous dog may be off the owner's premises, or outside of an enclosure as describe above, only if it is muzzled and restrained by a substantial chain or leash not exceeding three feet (3') in length and under the control of a person capable of completely restraining the dog and under the direct supervision of the owner or if enclosed in an airline approved dog shipping crate. The muzzle must be a commercial muzzle appropriate to the breed, made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.

**SECTION 4. Effective date.** This ordinance shall be effective immediately upon posting after final passage.

**PASSED, ADOPTED AND ORDERED POSTED** by the Council of Ogden City, Utah this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
CHAIR

**ATTEST:**

\_\_\_\_\_  
CITY RECORDER

**TRANSMITTED TO THE MAYOR ON:** \_\_\_\_\_

**MAYOR'S ACTION:**  Approved  Vetoed

\_\_\_\_\_  
MAYOR

**ATTEST:**

\_\_\_\_\_  
CITY RECORDER

**PUBLICATION DATE:** \_\_\_\_\_

**EFFECTIVE DATE:** \_\_\_\_\_

**APPROVED AS TO FORM:** \_\_\_\_\_  
Legal Date

\* The headings, catchlines or catchwords suggested for use in the Ogden Municipal Code and which are bracketed at the beginning of sections or subsections, shall not be considered to be a part of the ordinance adopted herein.