ORDINANCE NO. 2010 - 03

AN ORDINANCE REGULATING ANIMALS AND REQUIRING LICENSING OF ANIMALS WITHIN FOR THE CITY OF WENDOVER, TOOELE COUNTY, UTAH.

RECITALS

1. The City of Wendover is authorized to adopt and enforce lawful and reasonable ordinances regulating and controlling the activities, conduct and conditions of animals within the city;

2. The City if authorized to provide licensing requirements for animals within the city;

3. The City is authorized to provide criminal penalties for the violations of the City's ordinances.

4. The City deems it necessary to amend its Animal Control Ordinance in order to provide for the licensing of cats and to make other changes as deemed necessary and appropriate by the Council.

BE IT ORDAINED BY THE WENDOVER CITY COUNCIL:

Section No. 1 Ordinance Amended. The City's Animal Control Ordinance, as amended, is attached hereto as Exhibit "A." Said ordinance is hereby adopted and approved by the Governing Body of the City of Wendover, Utah.

Section No. 2. Other Ordinances, Rules and Resolutions. All ordinances, rules and resolutions heretofore adopted by the City dealing with animal control, animal licensing, collection of licensing fees, and related matters shall remain in full force and effect to the extent that said regulations are not in conflict with the Animal Control Ordinance adopted by virtue of Section No. 1, above. Any such regulation which conflicts with the Ordinance adopted herein is repealed.

Section No. 3. Severability Clause. The provisions of this Ordinance and all regulations thereunder, are severable. If any provision of this Ordinance is held invalid or unenforceable for any reason, said invalidity or unenforceability shall not affect any other provision of this Ordinance or its application under a different circumstance.

Section No. 4. Effective Date. This Ordinance shall become effective 20 days after publication or posting or 30 days after final passage by the governing body, whichever is earlier.

PASSED AND ADOPTED BY THE WENDOVER CITY COUNCIL THIS 17th DAY OF NOVEMBER, 2010.

MICHAEL R. CRAWFORD
MAYOR

ATTEST:

TAMMERA WEYLAND
CITY RECORDER

EXHIBIT "A"
TO WENDOVER CITY ORDINANCE NO. 2010 - 03

Passed and Adopted on November 3, 2010

WENDOVER CITY ANIMAL CONTROL ORDINANCE

ANIMAL CONTROL

Part 1 INTRODUCTORY PROVISIONS

1-101 Title.

This Ordinance shall be known as the Wendover City Animal Control Ordinance

1-102 Definitions.

The following terms, as used in this Chapter, shall have the following meanings:

(1) Adequate space means that when a dog is fixed to a tether, fastener, chain, tie, or other restraint, the dog is able to easily stand up, sit down, turn around, lie down, and make all normal bodily movements and interact safely with the environment and with other animals that may be in the immediate area.

(2) "Animals at Large" means any domesticated animal, whether or not licensed, not under restraint.

(3) "Animal Boarding Establishment" means any establishment which takes in animals for boarding for profit.

(4) Animal Control Administrator means the City Administrator Administrator of Wendover City.

(5) Animal Control Division means the Animal Control Administrator of the City.

(6) "Animal Grooming Parlor" means any establishment maintained for the purpose of offering cosmetological services for animals for a fee.

(7) "Animal Shelter" means a facility owned and/or operated by a governmental entity or any animal welfare organization 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.

(8) Animal Subject to Licensing means a dog or cat.

(9) "Animal Under Restraint" means any animal under the control of its owner or under the control of the person having charge, care, custody or control of the animal. A dog shall not be considered under control of the owner unless on a leash or lead, confined within a vehicle, or

restrained within the real property limits of the owner. An animal shall not be considered "under restraint" within the real property limits of the owner if an individual engaged in a normal and expected activity may come in contact with such animal on the owner's property. There must be sufficient protection to insure the individual's safety and warning must be given of the presence of such animal.

(10) "Animal Welfare Society" means any organization incorporated within the State of Utah for the purpose of preventing cruelty to animals. (See Section 76-9-302, Utah Code Annotated 1953).

(11) "Attack" means any attempted biting or action by an animal which places a person or another animal in danger of imminent bodily harm. Actual physical contact shall not be required to constitute an attack.

(12) "Bite" means any injury to person or property inflicted by the teeth of an animal.

(13) "Cat" means any feline of the domesticated types,

(14) "Cattery" means an establishment for boarding, breeding, buying, grooming or selling cats for profit.

(15) "Dog" means any "canis familiaris" over four months of age. Any "canis familiaris" under four months of age is a "puppy."

(16) "Domesticated Animals" means animals accustomed to living in or about the habitation of man, including, but not limited to, cats, dogs, fowl, horses, swine, and goats.

(17) Enclosure means a fence or structure of at least six feet in height, forming or causing an enclosure suitable to confine a vicious dog in conjunction with other measures which may be taken by the owner or keeper, such as tethering of the vicious dog.

(18) "Guard Dog" means a working dog that must be kept in a fenced run or other suitable enclosure during business hours, or on a leash or under absolute control, so it cannot come in to contact with the public.

(19) Health Department means the Tooele County Health Department.

(20) "Holding Facility" means any pet shop, kennel, cattery, groomery, riding school, stable, animal shelter, veterinary hospital, humane establishment, or any other such facility used for holding animals.

(21) Impound means taken into the possession and custody of an animal control agency, law enforcement agency, or an agent thereof.

(22) "Kennel" means and includes any residence, premises or establishment, including but not limited to a business establishment, having four (4) or more dogs. As it relates to persons within the City, the word "Kennel" also means and includes any person who harbors four (4) or more dogs upon or within a single premises, where said dogs are more than four (4) months of age.

(23) "Leash or Lead" means any chain, rope, or device having tensile strength to restrain an animal.

(24) "Pet" means a domesticated animal kept for pleasure rather than utility, but not limited to birds, cats, dogs, fish, hamsters, mice, and other animals associated with man's environment.

(25) "Pet Shop" means an establishment containing cages or exhibition pens, not part of a kennel or cattery, where dogs, cats, birds, or other pets for sale are kept and displayed. ~~for sale.~~

(26) "Quarantine" means the isolation of an animal in an enclosure so that the animal is not subject to contact with other animals or unauthorized persons.

(27) "Riding School or Stable" means an establishment which offers boarding and/or riding instructions for any horse, pony, donkey, mule, or burro, or which offers such animals for hire.

(28) Shelter means a structure which is substantial in construction and provides protection from moisture, wind and other factors of weather, and is of a size appropriate to the particular animal to ensure retention of body heat within the enclosure. Any shelter will be maintained to ensure a clean, dry, healthy environment for the animal being housed. Under this ordinance, retention of body heat means the ability of the animal to enter a shelter and be able to easily stand up, sit down, turn around, lie down, and make all normal bodily movements.

(29) "Stray" means any animal "at large."

(30) Tether means any chain, rope, cable, or device attached to a fixed object and used for restraining a dog. The tether must be of sufficient strength to restrain the dog and be appropriate to the breed, age, size, and weight of the dog and is attached to the dog by a properly applied collar, halter or harness configured so as to protect the dog from injury or entanglement with objects or other animals.

(31) "Vicious Animal" means any animal which is dangerously aggressive or uncontrollable, including, but not limited to, any animal which has bitten or in any other manner attacked any person or animal.

(32) Vicious Dog means:

a. Any dog which, in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places;

b. Any dog with a known propensity, tendency, or disposition to attack; to cause injury; or to otherwise endanger the safety of human beings or animals; or

c. Any dog which bites, inflicts injury, assaults, or otherwise attacks a human being or domestic animal on public or private property.

(33) Wild Animal means any animal of a species that in its natural life is wild, including those animals which, as a result of their natural or wild condition, cannot be vaccinated effectively for rabies. These animals, however domesticated, shall include but are not limited to:

a. Alligators and crocodiles.

b. Bears (ursidae). All bears, including grizzly bears, brown bears, black bears, etc.

c. Cat family (felidae). All members of the cat family except the commonly accepted domesticated cat, and including cheetah, cougar, leopard, lion, lynx, panther, mountain lion, tiger, wildcat, etc.

d. Dog family (canidae). All members of the dog family except the domesticated dog, and including wolf, part wolf, fox, part fox, coyote, part coyote, etc.

e. Porcupine (erethizontidae).

f. Primate (hominiddae). All subhuman primates.

g. Raccoon (prosynnidae). All raccoons, including easter raccoons, desert raccoons, ring-tailed cats, etc.

h. Skunks.

i. Venomous fish and piranha.

j. Venomous snakes and lizards.

k. Weasels (mustelidae). All members of the weasel family, including weasels, martins, wolverines, wild ferrets, badgers, otters, ermine, mink, mongoose, etc., except that persons raising animals of this family for their pelts, as a business, shall not be prohibited by this Title from possessing the animals.

1-103. ENFORCEMENT.

This Ordinance may be enforced through the Administrative Code Enforcement ("ACE") Hearing Program of the Wendover City Code, or by filing civil or criminal actions in the District Court as provided by law. The City has sole discretion to decide whether to file a civil or criminal case for a violation. The City may file both, or one or the other. The possibility of an administrative remedy pursuant the City's ACE Hearing Program to shall in no way interfere with the City's right to prosecute violations of this Ordinance as criminal offenses. The City may use any of the remedies available under the law in both civil and criminal prosecution. If the City chooses to file both civil and criminal charges for the same violation, no civil penalties may be assessed, but all other remedies are available.

1-104. VIOLATION.

Unless otherwise provided herein or by state or federal law, any person violating the provisions of this Title, either by failing to do those acts required herein or by doing any act prohibited herein, shall be guilty of a Class C misdemeanor. Each day such violation is committed or permitted to continue shall constitute a separate offense, and shall be punishable as such.

1-105. DUTIES OF ANIMAL CONTROL OFFICIALS.

(1) The Animal Control Administrator shall:

a. Enforce this Title and perform other responsibilities pursuant thereto.

b. Supervise any municipal animal shelter under the City's jurisdiction.

c. Keep adequate records of all animals impounded and all moneys collected.

d. See that all animals and animal holding facilities in the City's jurisdiction are licensed, controlled, and permitted in accordance with any applicable ordinance and/or regulations.

e. Establish, in cooperation with the state and local health departments, state veterinarian's office, and other relevant governmental agencies, adequate measures for rabies immunization and control.

(2) Each Animal Control Officer shall:

a. Enforce this Title in all respects pertaining to animal control within the jurisdiction, including the care and impounding of animals and prevention of cruelty to animals.

b. Carry out all duties prescribed or delegated by the Animal Control Administrator.

1-106. POWERS OF ANIMAL CONTROL OFFICIALS.

(1) The Animal Control Administrator or any person employed by the City as an Animal Control Officer shall take the oath of office and shall be vested with the power and authority to enforce this Title.

(2) The Animal Control Administrator, assistants, law enforcement officers, and Animal Control Officers are hereby authorized and empowered to apprehend and impound any animal found in violation of this Title, including, but not limited to, pets for which no license has been obtained in accordance with this Title.

(3) In the enforcement of this Ordinance, any peace officer, the Animal Control Administrator, and any Animal Control Officer is authorized to enter onto the open premises of any person to take possession of any animal in violation of this Title.

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1-107. OFFICER'S AUTHORITY TO TAKE POSSESSION OF ANIMALS –LIEN FOR CARE – DESTRUCTION OF ANIMALS FOUND SUFFERING.

(1) Any law enforcement officer or Animal Control Officer may take possession of any animal being treated cruelly and, after reasonable efforts to notify the owner, may provide shelter and care for it or may destroy it pursuant to this section.

(2) The City has a lien against the owner of any animal cared for or destroyed pursuant to this section for the reasonable costs of its care and/or destruction. Upon proof that the owner has been notified of the lien and amount due at least five days prior, the City may obtain an order that the animal be sold at public auction or destroyed.

(3) Any law enforcement officer or Animal Control Officer may humanely destroy any animal found suffering past recovery for any useful purpose. Before destroying the animal, the officer shall obtain an opinion that the animal is suffering past recovery from a veterinarian or from two reputable citizens called to view the animal in the officer's presence, or shall obtain consent to the destruction from the owner of the animal.

1-108. INTERFERENCE WITH OFFICER PROHIBITED.

It is unlawful for any person to knowingly and intentionally interfere with the Animal Control Administrator or any Animal Control Officer in the lawful discharge of their duties as prescribed in this Title.

1-109. Animal Control Shelter.

The City may enter into an agreement with Tooele County or another City, County or governmental agency (including governmental entities or political subdivisions within the State of Nevada) to:

(1) Provide suitable premises and facilities to be used as a Pound wherein impounded dogs and animals can be adequately kept,

(2) Purchase and supply food for the dogs impounded therein pursuant to the provisions of this Chapter, and

(3) Furnish, when necessary, medical treatment for such animals as may be impounded pursuant to this Chapter.

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PART 2. LICENSING

1-201. Dog and Cat Licensing.

(1) Age of Applicant. All licenses must be purchased by a person of the age of 18 years or older.

(2) Licensing Age. Any person owning, possessing, or harboring any dog or cat shall obtain a license for such animal within 30 days after the dog or cat reaches the age of four months, or in the case of a dog or cat over the age of four months, within ten days of the acquisition of such dog.

(3) Annual License Content. License applications must be submitted annually to the City, utilizing a standard form which requests name, address, and telephone number of the applicant. breed, sex, color, age, and any other information requested pertaining to the animal, and a current rabies vaccination certificate. Rabies vaccinations shall be given by a licensed veterinarian every three years. The application shall be accompanied by the Prescribed license fee.

(4) License Fee. License fees shall be established by Resolution of the City Council.

(5) Spaying/Neutering. No dog or cat shall be licensed as spayed or neutered without proof that such surgery was performed.

(6) Expiration. Licenses shall expire on December 31st of each year. A late fee shall be imposed on all licenses purchased after March 1st.

(7) Maximum Number of Animals. No person or persons shall license more than six (6) animals at any one residence, except as otherwise provided in this Ordinance. The maximum number of dogs at any single residence shall be three (3) and the maximum number of cats at any single residence shall be three (3). (For purposes of clarification, the intent of this provision shall be to prohibit any combination of licensed animals where the number of cats or dogs exceeds 3. So, for example, no person or persons at a single residence shall be allowed to have 4 dogs and 2 cats.)

1-202. License Tag.

(1) Issued. Upon payment of the license fee, the City shall issue to the owner a certificate and a tag for each dog or cat licensed. The tag shall be stamped with the license number assigned and recorded on the certificate. The owner shall attach the tag to the collar or harness of the animal and see that the collar and tag are constantly worn. Failure to attach the tag shall be a violation of this Chapter.

(2) Non-Transferable. Tags are not transferable from one dog or cat to another.

(3) No Refunds. No refunds shall be made of any dog or cat license fee for any reason.

(4) Replacement. Replacements for lost or destroyed tags shall be issued upon payment of $5.00 to the City.

(5) Removal of Collar. It is unlawful for any person to remove or cause to be removed the collar, harness, or tag from any licensed dog without the consent of the owner or keeper thereof except a licensed veterinarian or Animal Control Officer who removes such for medical and other reasons.

1-203. Licensing Exemptions.

(1) Licensing is not required for:

a. Animals subject to licensing whose owners are non-residents temporarily (up to 30 days) within the jurisdiction. Licensed animals whose owners remain within the jurisdiction longer than 30 days may transfer to the local license upon payment of the annual license fee, and presentation of proof of current license, and a copy of a current rabies vaccination certificate.

b. Individual animals within a properly-licensed kennel, cattery, or other such establishment when such animals are held for resale or placement.

c. Individual animals within research facilities where bona fide medical or related research is being conducted.

(2) The fee provisions of this Chapter shall not apply to:

a. 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.

b. Hearing dogs properly trained to assist deaf persons, if such dogs are actually being used by deaf persons to aid them in responding to sounds.

c. Dogs especially trained to assist officials of governmental agencies in the performance of their duties and which are owned by such agencies.

d. Other service animals which are properly trained and certified to aid the disabled and are actually used by a disabled person.

e. Any type of service animal which is in an official training program.

(3) Nothing in this Chapter shall be construed as to exempt any dog from having a current rabies vaccination.

1-204. REVOCATION OF LICENSE.

(1) If the owner of any animal subject to licensing is found to be in violation of this Ordinance on three or more different occasions during any 12-month period, the Animal Control

Administrator may obtain an order revoking, for a period of one year, any license(s) such person may possess and providing for the Animal Control Administrator to pick up and impound any animal(s) kept by the person under such order. Any animal impounded pursuant to such an order shall be dealt with in accordance with the provisions of this Ordinance for impounded animals; except that the person.

1-205. FEMALE ANIMALS IN ESTRUS.

The owner or custodian of any female animal in estrus, in addition to restraining such animal from running at large, shall cause the animal to be constantly confined in a building or secure enclosure, to minimize attracting male animals by scent, to prevent unwanted contact with other animals and to avoid creating a nuisance, except for planned breeding.

2-206. REMOVAL OF ANIMAL WASTE.

(1) The owner or custodian of any animal shall remove any feces left by said animal on any sidewalk, gutter, street, or other public area.

(2) The provisions of this section shall not apply to a guide dog, hearing dog, or other service dog accompanying any person with a disability, if such animal is actually being used by a disabled person.
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PART 3. BITES AND RABID ANIMALS

1-301. DUTY TO REPORT ANIMAL BITES.

(1) 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 Animal Control Administrator or to the Health Department.

(2) The owner of an animal that bites a person, and any person bitten by an animal, shall report the bite to the Animal Control Administrator or the Health Department within 24 hours of the bite, regardless of whether or not the biting animal is of a species subject to rabies.

(3) A physician or other medical personnel who renders professional treatment to a person bitten by an animal shall report to the Animal Control Administrator or the Health Department, within 24 hours, the fact that he has rendered professional treatment. He shall report the name, sex, and address of the person bitten, as well as the type and location of the bite. If known, he shall give the name and address of the owner of the animal that inflicted the bite and any other facts that may assist the Animal Control Administrator or the Health Department in ascertaining the immunization status of the animal.

(4) Any person treating an animal bitten, injured, or mauled by another animal shall report the incident to the Animal Control Administrator. The report shall contain the name and address of the owner of the victim animal; the name and address of the owner of the attacking animal; the description of the attacking animal; and the location of the incident.

(5) Any person not conforming with the requirements of this section shall be in violation of this Title.

1-302. CONTROL OF RABIES AND RABID ANIMALS.

(1) Rabies vaccination required for dogs, cats, and ferrets. The owner or person having the charge, care, custody, and control of a dog, cat, or ferret four-months of age or over shall have said animal vaccinated within 30 days after it reaches said age. Any person permitting any such animal to habitually be on or remain, or be lodged or fed, within such person's house, yard, or premises shall be responsible for said vaccination. Unvaccinated dogs, cats, or ferrets over four months of age acquired by the owner or moved into the jurisdiction must be vaccinated within 30 days of purchase or arrival. Every dog shall be revaccinated thereafter every 24 months; every cat shall be revaccinated thereafter every 12 months; and every ferret shall be revaccinated thereafter every 12 months, with a modified virus rabies vaccine approved by the Health Department. This provision shall not apply to veterinarian or kennel operators temporarily maintaining on their premises animals owned by others, or to bona fide research facilities.

2) Duties of veterinarian and tag requirements. It shall be the duty of each veterinarian, when vaccinating animals for rabies, to complete a certificate of rabies vaccination (in duplicate), which includes the following information:

a. Owner's name and address;
b. Description of animal (breed, sex, markings, age, name);
c. Date of vaccination;
d. Rabies vaccination tag number;
e. Type of rabies vaccine administered; and
f. Manufacturer's serial number of vaccine.

The issuing veterinarian shall retain the original certificate and distribute a copy to the owner of the animal. The veterinarian and the owner shall retain their copies of the certificate for the interval between vaccinations specified in this section. Additionally, a metal or durable plastic rabies vaccination tag, serially numbered, shall be securely attached to the collar or harness of the animal. An animal not wearing such a tag shall be deemed to be unvaccinated and may be impounded and dealt with pursuant to this Title.

(3) Transient animal -- exception. The provisions of this section shall not apply to any animal owned by a person temporarily remaining within the jurisdiction for less than 30 days. Such animals shall be kept under strict supervision of the owner. It shall be unlawful to bring any animal into the jurisdiction which does not comply with the animal health laws and import regulations.

(4) Impoundment of animal without valid rabies vaccination tag.

a. Any vaccinated animal impounded because of lack of a rabies vaccination tag may be reclaimed by its owner by furnishing proof of rabies vaccination and payment of all impoundment fees prior to release.

b. Any unvaccinated animal may be reclaimed prior to disposal by payment of impound fees and by obtaining a rabies vaccination within 72 hours of release.

c. Any animal not reclaimed prior to the period shall be disposed of pursuant to provisions of Section 1-504.

(5) Reporting of rabid animals. Any person having knowledge of the whereabouts of an animal known to have been exposed to, or suspected of having rabies, or of an animal or person bitten by such a suspect animal, shall notify the Animal Control Administrator, the Health Department, or the State Division of Health.

(6) Quarantining and disposition of biting or rabid animals.

a. 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 Animal Control Administrator upon demand.

b. The owner of any animal of a species subject to rabies which has bitten shall surrender the animal to an authorized official upon demand. Any person authorized to enforce this Title may enter upon private property to seize the animal. If the owner refuses to surrender the animal, the Officer shall immediately obtain a search warrant authorizing seizure and impoundment of the animal.

c. Any animal of a species subject to rabies that bites a person or animal or is suspected of having rabies may be seized and quarantined for observation for a period of not less than ten days by the Animal Control Administrator and/or the Health Department. The owner of the animal shall bear the cost of confinement. The animal shelter shall be the normal place for quarantine, but other arrangements, including confinement by the owner, may be made by the Animal Control Administrator and/or the Director of Health if the animal had 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 Animal Control Administrator 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 10 days from the date of bite, the person having custody shall immediately notify the Animal Control Administrator, so that it can immediately remove and deliver the head to the State Health Laboratory to be examined for rabies. If, at the end of the 10-day period, the Animal Control Administrator 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 by law.

d. Unvaccinated bitten animals.

i. 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 shall be immediately destroyed.

ii. If the owner is unwilling to destroy the bitten or exposed animal, the animal shall be immediately isolated and quarantined for six months under veterinary supervision, the cost of such confinement to he paid in advance by the owner. The animal shall be destroyed if the owner does not comply herewith.

e. Vaccinated bitten animals.

i. If the bitten or exposed animal has been vaccinated, the animal shall be vaccinated within 24 hours and quarantined for a period of 30 days following revaccination.

ii. If the animal is not revaccinated within 24 hours, the animal shall be isolated and quarantined under veterinary supervision for six months.

iii. The animal shall be destroyed if the owner does not comply with items (i) or (ii) of this subparagraph.

f. Removal of quarantined animal. It shall be unlawful for any person to remove any such animal from the place of quarantine without written permission of the Animal Control Administrator.

g. If any animal bites or attacks a person or animal two times or more in a 12-month period, such animal may be immediately impounded by the Animal Control Administrator

without court order and held at the owner's expense pending court action. Any such animal shall be deemed a vicious animal, and the Animal Control Administrator may seek a court order for destruction of the animal. Parties owning such animals shall, if possible, be notified immediately of the animal's location by the Animal Control Administrator.

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PART 4. GENERAL RULES AND REGULATIONS

1-401. ANIMALS CAUSING A NUISANCE.

Any owner or person having charge, care, custody, or control of an animal or animals causing a nuisance as defined below shall be in violation of this Title and subject to the penalties provided herein. The following shall be deemed a nuisance:

(1) Any animal which:

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

b. Is a vicious animal as defined herein and kept contrary to this Title;

c. Causes unreasonable fouling of the air by odors;

d. Causes unsanitary conditions in enclosures or surroundings;

e. Defecates in or on any public sidewalk, park, or building or on any private property without the consent of the owner of such private property, unless the person owning; having a proprietary interest in; harboring; or having care, charge, control, custody, or possession of such animal shall remove any such defecation to a proper trash receptacle;

f. Barks, whines, or howls or makes other disturbing noises in an excessive, continuous, or untimely fashion;

g. Molests passersby or chases passing vehicles;

h. Attacks other domestic animals; or

i. Is determined by the Animal Control Administrator or Health Department to be a public nuisance by virtue of being offensive or dangerous to the public health, welfare, or safety.

(2) Any animal which, by virtue of the number maintained, are determined by the Animal Control Administrator or the Health Department to be offensive or dangerous to the public health, welfare, or safety.

1-402. ANIMALS RUNNING AT LARGE.

It shall be unlawful for the owner or person having charge, care, custody, or control of any animal to allow such animal 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 section, regardless of the precautions taken to prevent the escape of the animal and regardless of whether or not the owner or person knows that the animal is running at large.

1-403. ANIMALS ATTACKING PERSONS AND ANIMALS.

(1) Attacking animals. It shall be unlawful for the owner or person having charge, care, custody, or control of any animal to allow such animal 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.

(2) Owner liability. The owner, in violation of subsection (1) above, shall be strictly liable for violation of this section. In addition to being subject to prosecution under subsection (1) above, the owner of such animal shall also be liable in damages to any person injured or to the owner of any animal(s) 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 animal was properly confined on the premises.
b. That the animal was deliberately or maliciously provoked.

(4) Animals may be killed. Any person may kill an animal while it is committing any of the acts specified in subsection (1) above or while such animal is being pursued thereafter.

(5) Every animal so vicious and dangerous that it cannot be controlled by its owner or person having charge, care, or control of such animal, so that it shall not injure any person or property, is a hazard to public safety, and the Animal Control Administrator shall seek an order requiring destruction of the animal, or muzzling, confinement, or other type of control.

1-404. CRUELTY TO ANIMALS PROHIBITED.

(1) Physical abuse. It is unlawful for any person to willfully or maliciously kill; maim; disfigure; torture; beat with a stick, chain, club, or other object; mutilate; burn or scald; over-drive; or otherwise cruelly set upon any animal. Each offense shall constitute a separate violation.

(2) Hobbling animals. It is unlawful for any person to hobble livestock or other animals by any means which may cause injury or damage to any animal.

(3) Care and maintenance. It shall be the duty of any person to provide any animal in his charge or custody, as owner or otherwise, with adequate food, drink, care, and shelter.

(4) Animals in vehicles. It shall be unlawful for any person to carry or confine any animal in or upon any vehicle in a cruel or inhumane manner, including, but not limited to, carrying or confining such animal without adequate ventilation or for an unusual length of time.

(5) Abandonment of animals. It shall be unlawful for any person to abandon any animal within the jurisdiction.

(6) Animal poisoning. Except for substances administered by a veterinarian or an Animal Control Officer humanely treating or disposing of an animal, it shall be unlawful for any person by any

means to make accessible to any animal, with intent to cause harm or death, any substance which has in any manner been treated or prepared with any harmful or poisonous substance. This provision shall not be interpreted so as to prohibit the use of poisonous substances for the control of vermin in furtherance of the public health when applied in such a manner as to reasonably prohibit access to other animals.

(7) Injury to animals by motorists.

a. Every operator of a motor or other self-propelled vehicle upon the streets of the jurisdiction shall immediately upon injuring, striking, maiming, or running down any domestic animal give such aid as can reasonably be rendered. In the absence of the owner, he shall immediately notify the Animal Control Administrator, furnishing facts relative to such injury.

b. It shall be the duty of such operator to remain at or near the scene until such time as the appropriate authorities arrive, and upon the arrival of such authorities, the operator shall immediately identify himself to such authorities. Alternatively, in the absence of the owner, a person may give aid by taking the animal to the Animal Control facility or other appropriate facility and notifying the Animal Control Administrator. Such animal may be taken in by the Animal Control facility and dealt with as deemed appropriate under the circumstances.

c. Emergency vehicles are exempted from the requirements of this provision.

(8) Animals for fighting.

a. It shall be unlawful for any person or corporation 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 be present as a spectator at any such fighting or baiting of any animal or fowl; and for any person, firm, or corporation to knowingly rent any building, shed, room, yard, ground, or premises for any such purposes as aforesaid, or to knowingly suffer or permit the use of his buildings, sheds, rooms, yards, grounds, or premises for the purposes aforesaid.

b. Law enforcement officers or Animal Control Administrator officials may enter any building or place where there is an exhibition of the fighting or baiting of a live animal, or where preparations are being made for such an exhibition, and the law enforcement officers may arrest persons there present and take possession of all animals engaged in fighting, or there found for the purposes of fighting, along with all implements or applications used in such exhibition. This provision shall not be interpreted to authorize a search or arrest without a warrant when such is required by law.

(9) Killing of birds. It shall be unlawful for any person to take or kill any bird(s) or to rob or destroy any nest, egg, or young of any bird in violation of the laws of the State of Utah.

(10) Malicious impounding. It shall be unlawful for any person to take, keep, or impound the animal of another without permission.

(11) Keeping of diseased or painfully crippled animals.

a. 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 worthless by reason of sickness of other disability, be killed in a humane manner by the owner thereof and disposed of as instructed after contacting the Animal Control Administrator.

b. It shall further be unlawful for the owner or person having the charge, care, custody, and control of such animal infected with dangerous or incurable and/or painfully crippling condition to have, keep, or harbor such animal without placing the same under veterinary care or to dispose of the same. The failure to take such care is a violation of this Title, and the Animal Control Administrator may take custody of such animals and deal with them as deemed appropriate under the circumstances.

(12) It is a defense to the prosecution under this section that the conduct of the actor towards the animal was by a licensed veterinarian using accepted veterinary practice or was directly related to a bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved.

(13) If the owner of any animal is found to be in violation of this section on three or more different occasions during any 12-month period, the Animal Control Administrator may obtain an order prohibiting that person from possessing, owning, keeping, or caring for any animal, whether subject to licensing or not. This restriction may include horses and livestock, if the acts committed did not meet accepted standards of care for such animals.

a. An order may be obtained if the person has been found to commit cruel acts to any animal, regardless of whether the animals were owned, kept, or possessed by that person.

b. The order shall designate a time period that the person may not obtain a license, which shall be determined based on the nature and severity of the violations. In no event shall the time period exceed five years.

c. The Animal Control Administrator shall pick up and impound any animal(s) kept by the person under such order. Any animal impounded pursuant to such an order shall be dealt with according to the provisions of this Title for impounded animals, except that such person under the order of revocation shall be allowed to redeem the animal under any circumstances.

(14) Tethering of dogs. It is unlawful for an owner or handler of a dog to tether a dog in any manner that would cause injury or damage to the dog, or when freedom of movement would endanger a dog. A tether must be of sufficient length to provide the dog with adequate space. Each dog tethered in violation of this section shall constitute a separate offense.

(15) Extreme weather. It shall be unlawful for an owner or handler of any dog to tether or place any dog under restraint outside and within the owner or handler's property limits during conditions of extreme heat or cold that are likely to endanger a dog confined in such temperatures. Extreme heat or cold shall be determined as appropriate to the breed, age, size, and weight of the dog.

1-405. SPECTATOR AT ORGANIZED ANIMAL FIGHT.

(1) It is unlawful for any person to be a spectator at an organized animal fight.

(2) For the purpose of this section only, an organized animal fight means a fight between animals for the benefit of spectators. There is no requirement that an admission fee be charged.

(3) A violation of this section is a Class C misdemeanor.

1-406. SALE OF ANIMALS.

(1) Rabbits or fowl. It shall be unlawful for any person to sell, offer for sale, barter, or give away any baby rabbits or fowl under two months of age in any quantity less than six. Such animals shall not be artificially dyed or colored. Nothing in this provision shall be construed to prohibit the raising of such rabbits and fowl by a private individual for his personal use and consumption, provided that the person shall maintain proper brooders and other facilities for the care and containment of such animals while they are in the person's possession.

(2) Premiums and novelties. It shall be unlawful for any person to offer any live animal as a premium, prize, award, novelty, or incentive to purchase merchandise.

(3) Pet turtles. It shall be unlawful for any pet shop to raise or sell any Pseudemys Scripta-Elegans, or P. troostii family Testudinidae, "pet turtles."

1-407. WILD ANIMALS.

(1) It shall be unlawful for any person to sell, offer for sale, barter, give away, keep, own, harbor, or purchase any wild animal, as defined above, which is fierce, dangerous, noxious, or naturally inclined to do harm; except the animal shelter, zoological park, veterinary hospital, humane society shelter, public laboratory, circus, sideshow, amusement show, or facility for education or scientific purposes may keep such an animal if protective devices adequate to prevent such animal from escaping or injuring the public are provided.

(2) It shall be unlawful for any person to keep an animal of a species prohibited or protected by federal law or by any regulation or law of the State of Utah.

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1-408. ANIMALS ON NON-ENCLOSED 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.

1-409. PLACES PROHIBITED TO ANIMALS.

(1) It shall be unlawful for any person to take or permit any animal, whether loose or on a leash or in arms, in or about any establishment or place of business where food or food products are sold or displayed, including, but not limited to, restaurants, grocery stores, meat markets, and fruit or vegetable stores.

(2) It shall be unlawful for any person keeping, harboring, or having charge or control of any animal to allow said animal to be within any watershed area so designated by ordinance or otherwise legally appointed, either now existing or to be defined in the future.

(3) This section shall not apply when the City Council determines that the public health, safety, and welfare are best served by the maintenance of an animal or animals in the prohibited areas.

(4) This section does not apply to animals trained, certified, and actually used to provide assistance to the disabled, provided the animals are under control at all times.

1-410. UNLAWFUL TO HARBOR STRAY ANIMALS.

It shall be unlawful for any person, except an animal welfare society incorporated within the State of Utah under Section 76-9-302, Utah Code Annotated 1953, as amended, to harbor or keep any lost or strayed animal. Whenever any animal shall be found which appears to be lost or strayed, it shall be the duty of the finder to notify the Animal Control Administrator within 24 hours, and the Administrator shall impound the animal as herein provided.

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PART 5. ANIMAL SHELTER AND IMPOUND

1-501. ANIMAL SHELTER.

(1) The City shall provide suitable premises and facilities to be used as an animal shelter where impounded small animals can be adequately kept. It shall purchase and supply food and supply humane care for impounded animals.

(2) The City shall provide for the painless and humane destruction of dogs and other animals required to be destroyed by this Title or by the laws of the State of Utah.

(3) The City may furnish, when necessary, medical treatment for such animals as may be impounded pursuant to this chapter.

1-502. ANIMALS TO BE IMPOUNDED

The Animal Control Administrator shall place all animals taken into custody in a designated animal impound facility. The following animals may be taken into custody by the Animal Control Administrator and impounded without the filing of a complaint:

(1) Any animal being kept or maintained contrary to the provisions of this Title;

(2) Any animal running at large contrary to the provisions of this Title;

(3) Any animal which is by this Title required to be licensed and is not licensed. An animal not wearing a tag shall be presumed to be unlicensed for purposes of this section.

(4) Sick or injured animals whose owners cannot be located;

(5) Any abandoned animal;

(6) Animals which are not vaccinated for rabies in accordance with the requirements of this Title;

(7) Any animal to be held for quarantine; or

(8) Any vicious animal not properly confined as required by herein.

1-503. IMPOUND RECORDS TO BE KEPT.

The impounding facility shall keep a record of each animal impounded that includes the following information:

(1) Complete description of the animal, including tag numbers.

(2) The manner and date of impound.

(3) The location of the pick-up and name of the Officer picking up the animal.

(4) The manner and date of disposal.

(5) The name and address of the redeemer or purchaser.

(6) The name and address of any person relinquishing an animal to the impound facility.

(7) All fees received.

(8) All expenses accruing during impoundment.

1-504. DISPOSITION OF IMPOUNDED ANIMALS.

(1) Domesticated animals shall be impounded for a minimum of three full calendar days before further disposition, except as otherwise provided herein. 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. Any animal voluntarily relinquished to the Animal Control facility by the owner thereof for destruction or other disposition need not be kept for the minimum holding period before release or other disposition as herein provided.

(2) Domesticated animals, except for those quarantined or confined by court order, held longer than the minimum impound period, and all animals voluntarily relinquished to the impound facility, may be destroyed or sold as the Animal Control Administrator shall direct. Any healthy domesticated animal, unless prohibited or restricted by law, may be sold to any person or to any institution engaged in scientific research and desiring to purchase such animal for a price to be determined by the Administrator, but not to exceed $30 per animal, plus license and rabies vaccination, if required.

(3) Any licensed animal impounded and having or suspected of having serious physical injury or contagious disease requiring medical attention may, in the discretion of the Animal Control Administrator, be released to the care of a veterinarian with the consent of the owner.

(4) When, in the judgment of the Animal Control Administrator, it is determined that an animal should be destroyed for humane reasons or to protect the public from imminent danger to persons or property, such animal may be destroyed without regard to any time limitations otherwise established herein, and without an order from a court or administrative hearing officer.

1-505. REDEMPTION OF IMPOUNDED ANIMALS.

(1) The owner of any impounded animal, or the owner's authorized representative, may redeem an impounded animal prior to disposition, provided that the owner may legally possess the animal and provided that the owner complies with the following:

a. Payment of all applicable fees, including, but not limited to, impound fees, boarding fees, veterinary and vaccination costs, and license fees;

b. Provision of satisfactory evidence of an appointment with a licensed veterinarian to provide for the spaying or neutering of the animal, and payment of a sterilization deposit, unless already altered; and

c. For animals subject to licensing and cats, return of proof of spaying or neutering to the Animal Control Administrator within 30 days of the date the owner receives custody of the animal. Failure to return such proof within 30 days of redemption shall be a Class C misdemeanor, and the Animal Control Administrator may immediately impound the animal.

(2) The spay/neuter requirements of this section do not apply to any animal subject to licensing or cat that is certified to be altered at the time of redemption.

a. The Animal control Administrator may, for good cause shown, waive the spay/neuter requirement for pure-breed, registered dogs or cats which are actually used for breeding, and which are redeemed by the owner.

b. The animal Control Administrator may impose reasonable conditions for the waiver. i. A waiver granted under this subsection does not exempt the owner from payment of any other fines or fees imposed by the City.

(3) All redeemed animals are redeemed as is, and the redeeming owner is responsible for the animal, its actions, and its care once the owner has taken custody of the animal.

(4) Redemption of dogs under this section is subject to the provisions of this Title relating to the regulation of vicious dogs.

1-506. ADOPTION OF DOMESTICATED ANIMALS.

(1) Any domesticated animal impounded or relinquished by its owner to the City may be made available to the public for adoption, at the discretion of the Animal Control Administrator. Adoptions shall meet the following minimum requirements:

a. If the animal was impounded, it must be held for a minimum of three working days prior to being eligible for adoption. Animals that have been signed over to the City by their owners are eligible for adoption immediately.

b. The animal must be of a suitable age, type, and temperament for adoption, as determined by the Animal Control Administrator.

c. The animal must be free from signs of illness, serious injury, or aggressive behavior.

d. The person desiring to adopt the animal shall complete an adoption questionnaire provided by the Animal Control Administrator, and shall be interviewed by the Administrator regarding the adoption process and fees, responsible pet owner practices, and Animal Control ordinances. The interview may include an inspection of the animal's proposed living area and conditions. The adoption may be refused if, based upon the information supplied in the questionnaire and interview process, the Animal Control Administrator believes that the adoption would not be in the best interests of the adopting person or the animal.

e. The decision of the Animal Control Administrator may be appealed to the City Council. The City Council shall issue a written decision within 30 days of the appeal. The decision of the Council may be appealed to District Court.

f. Prior to receiving custody of the animal, the adopting person must pay any applicable fees, which may include an adoption fee and license fee.

g. If, at the end of the impoundment period, the individual or entity against whom the decision and order of the City Council was issued has not complied with the order or petitioned District Court for a review of said order, the Animal Control Administrator shall cause the dog to be destroyed in a humane manner.

h. Except as provided in Subsection (i), all animals subject to licensing and cats must be spayed or neutered prior to adoption. The spay/neuter requirements of this Section do not apply to any animal subject to licensing or cat that is certified to be altered at the time of adoption.

i. An animal subject to licensing, or cat that has not been sterilized, may be adopted only if:

i. The person adopting the animal agrees in writing to be responsible for ensuring that the animal will be sterilized within 30 days after the agreement is signed, if the animal is six months of age or older; or within 30 days after the animal becomes six months of age; and

ii. The person adopting the animal pays the sterilization deposit, as provided in Section 1-507.

j. If the person adopting the animal fails to comply with the sterilization agreement provided for in this Subsection:

i. The animal shall be immediately seized and impounded;

ii. The person relinquishes all ownership rights to the animal, and also any claim for expenses incurred for care and maintenance of the animal;

iii. The person forfeits the sterilization deposit of Section 1-507; and

iv. The person may be subject to any penalties established by this Title.

k. All animals are adopted as is, and the adopting person is responsible for the animal, its actions, and its care once the adopting person has taken custody of the animal.

l. The Animal Control Administrator may implement a policy for the exchange of sick or undesirable animals within 30 days of the date the animal was adopted.

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1-507. STERILIZATION DEPOSITS.

(1) A sterilization deposit shall be required for the adoption/redemption of any animal subject to licensing, and any cat. The person paying the deposit has sole responsibility to provide proof of sterilization within the time period provided.

a. A portion of the deposit shall be refunded if proof of sterilization is presented to the Animal Control Administrator not more than three months after the date the animal is sterilized.

b. The deposit shall be forfeited if proof of sterilization is not presented to the Animal Control Administrator within three months after the date the animal is sterilized. Any deposit that is forfeited shall be retained by the City.

(2) The sterilization deposit shall be adopted by the City and shall reflect the average reduced cost of sterilization of an animal, based on the gender and weight of the animal, that is reasonably available in Tooele County, or otherwise as adopted by the entity operating the facility including the City of West Wendover, Nevada.

(3) If a female dog or cat and her litter are adopted by any person, a sterilization deposit is required only for the adult female.

1-508. PENALTIES.

(1) Any person who commits one of the following acts is subject to the civil penalties of this Section:

a. Falsifying any proof of sterilization submitted for the purpose of claiming compliance with the sterilization requirements of this Chapter;

b. Providing to the animal shelter or a licensed veterinarian inaccurate or false information regarding ownership of any animal subject to the sterilization requirements of this Chapter;

c. Submitting to the animal shelter false or inaccurate information regarding sterilization fees or fee schedules; or

d. Issuing a check for insufficient funds for any sterilization deposit required under this Chapter.

(2) The Animal Control Administrator shall enforce these penalties and impose all fines pursuant to the City's "Administrative Code Enforcement" Ordinance.

(3) The penalties for the violations in Subsection (1) shall be:

a. $250 for the first violation; and

b. $500 for each subsequent violation.

(4) All penalties collected under this Section shall be deposited to the General Fund of the City.

(5) Nothing in this Section shall limit the right of the City to prosecute and enforce violations of this Title and to seek any other remedy available at law, including criminal prosecution for the acts listed in Subsection (1).

1-509. BOND FOR IMPOUNDMENT REQUIRED.

(1) A bond shall be required for the impoundment of neglected, cruelly treated, quarantined, vicious, and/or animals being held for revocation of license. Any owner whose animal(s) are impounded for a period exceeding three calendar (3) days shall be required to post a bond with the City. The cost of the bond will include the costs incurred and associated with the holding of said animal. The fees and bond must be paid in full within 3 days of notification of impoundment. Failure to consent to the City's impoundment of said animal(s), failure to deliver payment of the bond and/or fees, or failure to release ownership of said animal(s) shall constitute abandonment. Upon the occurrence of abandonment, the animal(s) will become property of the City and decisions regarding the future disposition and/or adoptability of the animals will be the sole responsibility of the City. Circumstances requiring animal owners to post the payment of a bond will include, but not be limited to:

a. All known shelter fees owing on quarantined animals at the time of impound;

b. Animals impounded for pending Vicious Dog and/or Revocation hearings will be required to pay all accrued shelter fees and secure a 30 day bond covering the cost of boarding until the hearing;

c. All other fees, including but not limited to veterinary care and medication will be due at the time of service;

(2) Any such payment received by the City in excess of the amount determined by the City to be due for the board and care of the animal shall be refunded by the City upon expiration of the order of impoundment. Notwithstanding the foregoing, if the owner or custodian of the animals is found not guilty of animal neglect or cruelty, the dog is not deemed vicious, or the Request for Revocation of the license is denied, the owner or custodian shall only be required to pay the veterinary expenses and one-half of the boarding and care fees owed to the City. [keep this? –or- require payment of all costs incurred by the City associated with the impound of the animal?]

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PART 6. PERMITS

1-601. REGULATORY PERMITS.

(1) It shall be unlawful for any person to operate or maintain a kennel, cattery, pet shop, groomery, riding stable, or any similar establishment unless such person first obtains a regulatory permit from the Animal Control Administrator, in addition to all other required licenses. All applications for permits to operate such establishments shall be submitted, together with the required permit fee, on a printed form provided by the Animal Control Administrator to that Administrator. Before the permit is issued, approval shall be granted by the Health Department, the Planning and Zoning Board, and the Animal Control Administrator.

(2) Sportsman's permit:

a. Where permitted by the City Council, owners of pure-bred dogs may obtain a permit to keep up to five dogs in a residential area provided:

i. Such dogs are individually licensed;

ii. Such dogs are registered with a national registry (AKC, UKC, Field Dog);

iii. Approval is granted by the Planning and Zoning Board, Health Department, and the Animal Control Administrator;

iv. Adequate dog runs (not necessarily concrete) are provided; and

v. Other provisions of this Title and the City Code are complied with, and no dog or premises is deemed to be a nuisance.

b. The holder of a permit issued under this subsection may keep one litter intact until the dogs reach six months of age; one animal from the litter may be retained until it reaches 12 months of age. At no time may the holder of the permit retain more than six dogs over six months of age nor more than five dogs over one year of age.

(3) A valid permit shall be posted in a conspicuous place in each establishment, and said permit shall be considered as appurtenant to the premises and not transferable to another location. The permittee shall notify the Animal Control Administrator within 30 days of any change in the permittee's establishment or operation which may affect the status of the permit. In the event of a change in ownership of the establishment, the permittee shall notify the Animal Control Administrator immediately. Permits shall not be transferable from one owner to another.

(4) Any permit issued pursuant to this Chapter shall automatically expire on the December 31st immediately following date of issue. Within two months prior to the expiration of the permit, the permittee shall apply for a renewal of the permit and pay the required fee.

(5) Notice provided for under this chapter shall be deemed to have been properly served when the original of the inspection report form or other notice has been delivered personally to the permit holder or person in charge, or such notice has been sent by mail to the last known address of the permit holder, or the property owner's address as it appears on the records of the Salt Lake

County Assessor. A copy of such notice shall be filed with the records of the Animal Control Administrator.

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PART 7. REGULATION OF VICIOUS DOGS

1-701. REQUIREMENTS FOR REGISTRATION.

(1) A vicious dog, as determined by this chapter, shall not be licensed in the City unless the owner or keeper of such vicious dog shall meet the following requirements:

a. The owner or keeper shall present to the Animal Control Administrator proof that the owner or keeper has procured liability insurance in the amount of at least Twenty-Five Thousand Dollars ($25,000), covering any damage or injury which may be caused by such vicious dog during the 12-month period for which licensing is sought, which policy shall contain a provision requiring the City to be named as additional insured for the sole purpose of the City to be notified by the insurance company of any cancellation, termination, or expiration of the liability insurance policy.

b. The owner or keeper shall, at his own expense, have the licensing number assigned to such vicious dog, or such other identification number as the City shall determine, tattooed upon such vicious dog by a licensed veterinarian or person trained as a tattooist and authorized as such by statute. The tattoo shall be placed either on the upper inner lip or upper left rear thigh of the vicious dog. The Animal Control Administrator may designate the particular location of the tattoo. The number shall be noted on the City licensing files for such vicious dog, if it is different from the dog's license number. For the purposes of this section, "tattoo" shall be defined as any permanent numbering of a vicious dog by means of indelible or permanent ink with the number designated by the licensing authority, or any other permanent, acceptable method of tattooing.

c. The owner or keeper shall display a sign on his or her premises warning that there is a vicious dog on the premises. Said sign shall be visible and capable of being read from the public highway.

d. The owner or keeper shall sign a statement attesting that:

i. The owner or keeper shall maintain and not voluntarily cancel the liability insurance required by this section during the 12-month period for which licensing is sought, unless the owner or keeper shall cease to own or keep the vicious dog prior to expiration of such license.

ii. The owner or keeper shall, on or prior to the effective date of such license for which application is being made, have an enclosure for the vicious dog on the property where the vicious dog will be kept or maintained. Such enclosure shall be securely enclosed and locked and designed with secure sides, top, and bottom, and shall be designed to prevent the animal from escaping from the enclosure.

iii. The owner or keeper shall notify the Animal Control Administrator immediately if a vicious dog is on the loose, is unconfined, has attacked another animal, or has attacked a human being. If the vicious dog has died, been sold, or given away, the owner or keeper shall notify the Animal Control Administrator by the end of the next business day and shall also provide the Animal Control Administrator with the name, address, and telephone number of the new owner of the vicious dog.

e. The owner or keeper shall at all times cause the vicious dog to wear a collar of a color and type designated by the Animal Control Administrator so that the dog is readily identifiable as a vicious dog.

(2) The Animal Control Administrator is hereby empowered to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this chapter, and any Animal Control Officer or peace officer is hereby empowered to seize and impound any vicious dog whose owner or keeper fails to comply with the provisions hereof.

1-702. CONTROL OF VICIOUS DOG

(1) All vicious dogs shall be confined in a locked enclosure. It shall be unlawful for any owner or keeper to maintain a vicious dog upon any premises which does not have a locked enclosure.

(2) It shall be unlawful for any owner or keeper to allow any vicious dog to be outside of the dwelling of the owner or keeper or outside of the enclosure, unless the vicious dog shall be securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length, and shall be under the direct control of a person capable of completely restraining the dog and under the direct supervision of the owner or keeper of the vicious dog.

1-703. OFFENDING VICIOUS DOGS.

If any vicious dog shall, when unprovoked, kill or wound, or assist in the killing or wounding of, any sheep, lamb, cattle, dog, cat, horse, hog, swine, fowl, or other animal, or shall, when unprovoked, attack, assault, bite, or otherwise injure any human being or assist in attacking, assaulting, biting, or otherwise injuring any human being while out of or within the enclosure of the owner or keeper of such vicious dog, or while otherwise, on or off the property of the owner or keeper, whether or not such vicious dog was on a leash and securely muzzled or whether the vicious dog escaped without fault of the owner or keeper, the owner or keeper of such dog shall be strictly liable to the person aggrieved as aforesaid, for all damage sustained. It shall not be necessary, in order to sustain any nuisance action, to prove that the owner or keeper of such vicious dog knew that such vicious dog possessed the propensity to cause such damage or that the vicious dog had a vicious nature. Upon such attack or assault, the Animal Control Administrator or Police Department is hereby empowered to impound the vicious dog.

1-704. PENALTIES FOR VIOLATION

(1) Any vicious dog which does not have a valid license in accordance with the provisions of this chapter; or

a. Whose owner or keeper does not secure the liability insurance coverage required in accordance with Section 1-701; or

b. Which is not properly controlled or confined in an enclosure, as required by Section 1-702; or

c. Which is found to be outside of the dwelling of the owner or keeper, or outside of an enclosure except as provided in this chapter; or

d. Which is found not wearing the collar required by Section 1-701 of this Ordinance; or

e. Which is not tattooed;

(2) shall be impounded by an Animal Control Officer or Police Officer, and the owner or keeper shall be guilty of a Class B misdemeanor.

(3) If any dog that has been declared vicious pursuant to the provisions of this chapter shall, when unprovoked, kill, wound, or worry or assist in killing or wounding or worrying any animal, the Animal Control Administrator or Police Department is empowered to impound and, after the expiration of a ten-day appeal period, exclusive of weekends and holidays, shall destroy the vicious dog, if an appeal of the violation has not been made. Appeals shall be made in writing to the Animal Control Administrator, and shall be made pursuant to the City's ACE Ordinance.

(4) If any dog that has been declared vicious pursuant to the provisions of this chapter shall, when unprovoked, attack, assault, wound, bite, or otherwise injure or kill a human being, the Animal Control Administrator or Police Department is empowered to impound and, after the expiration of a ten-day appeal period, exclusive of weekends and holidays, shall destroy the vicious dog, if an appeal of the violation has not been made. Appeals shall be made in writing to the Animal Control Administrator, and shall be made pursuant to the City's ACE Ordinance.

1-705. DETERMINATION, SEIZURE, IMPOUNDMENT, AND DISPOSITION OF VICIOUS DOGS.

(1) The City Council hereby determines that owning, keeping, or harboring vicious dogs is a nuisance, and that strict controls of vicious dogs are necessary to protect the health, safety, and welfare of the citizens of Wendover City, Utah.

(2) The Animal Control Administrator, in the discretion of the Animal Control Administrator or upon receipt of a complaint alleging that a particular dog is a vicious dog, as defined herein, may initiate proceedings to declare such dog a vicious dog. All proceedings to determine whether or not a dog is vicious, or a proceeding on a violation alleged to have been committed by a dog previously determined to be vicious, shall be conducted by an Administrative Code Enforcement Hearing Officer pursuant to the procedures of the City's ACE Ordinance, in addition to the procedures set forth in this section. In determining whether or not a dog shall be declared a vicious dog, the Hearing Officer may consider, as a mitigating factor, that the actions of the dog were provoked, as defined in this chapter. A hearing on the matter shall be conducted if requested in writing. The person owning, keeping, sheltering, or harboring the dog in question shall be given written notice of the time and place of the hearing, pursuant to Section 10-2-504 of the

City Code. Said notice shall set forth the description of the dog in question and the basis for the allegation of viciousness. The notice shall also set forth that if the dog is determined to be vicious, the owner will be required to register and restrain it in accordance with this chapter, remove it from the City, or allow it to be destroyed. The notice shall state that if the owner or keeper of the dog fails to request a hearing in writing, a default order will be entered deeming the dog vicious. The notice shall be served upon any adult residing at the premises where the dog is located, or may be posted on those premises if no adult is present to accept service.

(3) If, after the hearing, the Hearing Officer determines that a dog is vicious, as defined in this chapter, the Hearing Officer shall order the person owning, sheltering, harboring, or keeping the dog to register the dog in compliance with this chapter; to remove it from the City; or to cause it to be destroyed in a humane manner. The order shall immediately be served upon the individual or entity against whom issued in the same manner as the notice of hearing. If the order is not complied with within three days of its issuance, the Animal Control Administrator is authorized to order the seizure and impoundment of the dog. A dog so seized shall be impounded for a period of ten days from the date the order is served upon the owner or keeper. If, at the end of the impoundment period, the person against whom the order was issued has not appealed such order to the District Court, the Animal Control Administrator shall cause the dog to be destroyed.

(4) The order issued by the Hearing Officer, declaring a dog vicious, or in violation of this chapter, and ordering the owner or keeper to register, remove, or destroy the dog, may be appealed to the District Court. In order to appeal the order, written notice of appeal must be filed with the Court within ten days after receipt of the order to remove, register, or destroy the vicious dog. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the Hearing Officer. The order issued by the Hearing Officer shall state the appeal process established by this section.

a. The District Court shall review the record of the Hearing Officer's decision or the allegations that led to the default order, and shall uphold the decision unless it was arbitrary, capricious, or illegal.

b. If the appeal is from an order finding that a dog previously determined to be vicious is in violation of this chapter, then the Court shall review the order concerning the violation only, and not review the prior determination that the dog is vicious.

c. While the appeal is pending, the dog shall be confined in a manner consistent with the requirements of this chapter, as approved by the Animal Control Administrator, and at the sole expense of the owner or keeper.

(5) If the District Court upholds the decision of the Hearing Officer, the owner or keeper of the vicious dog shall comply with the Hearing Officer's order within three days of receiving notice of the Court's decision. If the order is not complied with, the Animal Control Administrator is authorized to seize and impound the vicious dog, at the owner's or keeper's expense. The dog will be impounded for seven days, during which the owner or keeper may redeem the animal by paying all reasonable costs associated with the impoundment, and by showing, to the satisfaction

of the Animal Control Administrator, that the owner or keeper will fully comply with the order of the Hearing Officer.

(6) Failure to comply with an order of the Hearing Officer issued pursuant hereto and not appealed, or upheld by the District Court after appeal, shall constitute a Class B misdemeanor.

(7) Any dog found at large which displays vicious tendencies may be processed as a vicious dog pursuant to the foregoing.

(8) All costs of such impoundment or quarantine shall be paid by the owner if the dog is determined to be vicious. If collection of expenses is pursued, the City shall file suit and receive a judgment for all expenses, together with reasonable attorneys' fees, interest, and court costs. If the dog is not determined to be vicious, all costs of such impoundment or quarantine shall be paid by the City.

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Section No. 4. Effective Date. This Ordinance shall become effective 20 days after publication or posting or 30 days after final passage by the governing body, whichever is earlier.

PASSED AND ADOPTED BY THE WENDOVER CITY COUNCIL THIS 17TH DAY OF NOVEMBER, 2010.

MICHAEL R. CRAWFORD
MAYOR

ATTEST:

TAMMERA WEYLAND
CITY RECORDER