

AMMENDA AN ORDINANCE TO ESTABLISH AND IMPLEMENT RULES AND REGULATIONS FOR ANIMAL CONTROL AND TO REPEAL ORDINANCE 05-09-06 AND ALL OTHER ORDINANCES IN REGARD TO ANIMAL CONTROL.

It is the intent of Emery Town to repeal Ordinance 05-09-06 providing for:

- (1) The humane control and regulation of animals.
- (2) Regulation and licensing of dogs, cats and kennels.
- (3) Licensing.
- (4) Animal Control Officers.
- (5) Requirements of isolation of aggressive animals.

That beginning on date of passage hereof, June 8, 2010, be it ordained by Emery Town, a Public Corporation, State of Utah.

**SECTION I
DEFINITIONS**

As used in this Ordinance the following terms mean:

Animal: Any live vertebrate creature, domestic or wild, except livestock.

Animal Control Officer: A person or persons designated by Emery Town and/or Emery County to enforce the provisions of this Ordinance, including the collection of licensing and permit fees and the performance of other delineated duties.

Animal Shelter: Any facility where animals are regularly bought, sold or traded, except for those facilities otherwise defined in this Ordinance. This section does not apply to individual sales of animals by owners.

Auctions: Any place or facility where animals are regularly bought, sold or traded, except for those facilities otherwise defined in this Ordinance. This Section does not apply to individual sales of animals by owners.

Circus: A commercial variety show featuring animal acts for public entertainment.

Commercial Animal Establishment: Any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, performing animal exhibition or kennel.

Grooming Shop: A commercial establishment where animals are bathed, clipped, plucked or otherwise groomed.

Euthanasia and/or Humane Killing: Killing by an instantaneous and/or painless method.

Kennel: Any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, or training for a fee or selling dogs.

Livestock: Cows, horses, pigs, sheep and any other animal commonly kept for its meat, hide, milk, eggs, hair or fur or for riding purposes; not including dogs, cats or animals commonly used as pets.

Licensing Authorities: Emery Town by and through its Clerk and/or Animal Control Officer.

Owner: Any person, partnership or corporation owning, keeping or harboring animals or any said person, partnership or corporation who allows another person, partnership or corporation to keep or harbor one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) consecutive days or more.

Performing Animal Exhibition: Any spectacle, display, act or event other than circuses in which performing animals are used.

Pet: Any animal kept for pleasure rather than utility.

Pet Shop: Any person, partnership or corporation, whether operating separately or in connection with another business enterprise except for a licensed kennel, that buys, sells or boards any species of animal other than livestock or farm animals.

Public Nuisance or Nuisance Animals: any animal or animals which:

1. Molests passersby or passing vehicles by chasing, attacking, or threatening to attack same; provided that mere barking from a distance of ten (10) feet or greater shall not be considered molesting.
2. Attacks other animals.
3. Is repeatedly at large (other than cats).
4. Damages private or public property (including scattering garbage from garbage cans and depositing excreta on such property).
5. Barks, whines or howls in an excessive, continuous or untimely fashion.

Restraint: Any animal secured by a leash or lead, or under the control of a responsible person and obedient to that persons commands or within the real property limits of its owner.

Riding School or Stable: Any place which has available for hire, boarding and/or riding instructions, any horse, pony, donkey, mule or burrow.

Veterinary Hospital: Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of disease and injuries of animals.

Vicious Animal: Any animal or animals that bites or otherwise constitutes a physical threat to human beings or other animals.

Wild Animal: Any live monkey, non-human primate, raccoon, skunk, fox, poisonous snake, leopard, panther, tiger, lion, lynx or any other animal which can normally be found in the wild state.

Zoological Park: Any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of non-domesticated animals operated by a person, partnership, corporation or government agency.

SECTION II LICENSING

Any person owning, keeping, harboring, or having custody of any dog over six months of age within Emery Town must obtain a license as herein provided.

- (a) Licenses shall be obtained annually through the Emery Town office. A current rabies certificate issued by a licensed veterinarian or rabies clinic, name and address of owner, description of the animal (name, color, breed and proof of altered status if applicable) and the designated fee are required to obtain a license. A rabies certificate shall be valid for three (3) years.
- (b) If not revoked, licenses for the keeping of dogs shall be valid through December 31st of the year in which the license is obtained.
- (c) Application for a license must be made within 30 days after obtaining a dog over six (6) months of age.
- (d) License fees shall not be required for Seeing Eye Dogs or Governmental Police Dogs.
- (e) Upon acceptance of the application for licensure and applicable fee, Emery Town and/or the Animal Control Officer shall issue a durable tag stamped with an identifying number and the year of issuance.
- (f) Dogs must wear identification tags or collars at all times when off the premises of the owner of the animal.
- (g) Emery Town shall maintain a record of the identifying numbers of all tags issued and shall make this record available to the public upon request during Town Office regular business hours.
- (h) The licensing period shall begin with the calendar year and shall run for one (1) year (January 1 through December 31). Fees paid after January 1 are not pro-rated for the remainder of the year. Application for renewal of license may be made 30 days before and up to 60 days after the start of the calendar year.
- (i) Persons who fail to obtain a license as required within the time period specified in this section will be subject to a fine of \$15 in addition to the annual license.
- (j) A license shall be issued after requirements are met and the applicable fee is paid.

| | | |
|----|--------------------------------|---------------|
| 1) | Unaltered (neutered/spayed dog | \$20 per year |
| 2) | Altered (neutered/spayed) dog | \$10 per year |
| 3) | Kennel – Five (5) or more dogs | \$60 per year |
- (k) A duplicate license may be obtained upon payment of a \$5 replacement fee. Tags cannot be replaced.

- (l) No person may use any license for any animal other than the animal for which it was issued.
- (m) Dog license are due March 1st. After this date, owners of dogs not licensed will be contacted and given (30) days to pay dog license and provide proof of rabies vaccination. If the license is not paid in full the dog will be seized and transported to the animal shelter.

SECTION III PERMITS

- (a) No person, partnership or corporation shall operate a commercial animal establishment or animal shelter without first obtaining a permit in compliance with this Section.
- (b) All such establishments or shelters shall comply with the provisions of this Ordinance and other applicable laws
- (c) Upon a showing by an applicant for a permit that he is willing and able to comply with the regulations and provisions of this Ordinance, a permit shall be issued upon payment of the applicable fee.
- (d) The permit period shall begin with the calendar year and shall run for one (1) year (January 1 through December 31). Fees paid after January 1 are not pro-rated for the remainder of the year. Renewal applications for permits shall be made 30 days prior to and up to 60 days after the start of the calendar year.
- (e) Application for permit to establish a new commercial animal establishment under the provisions of the Ordinance may be made at any time.
- (f) If there is a change in ownership of a commercial animal establishment, the new owner may have the current permit transferred to his/her name upon payment of a \$25 transfer fee.
- (g) Annual permits shall be issued upon payment of the applicable fee:

| | | |
|----|--|-------|
| 1) | For each kennel authorized to house less than ten (10) dogs | \$ 60 |
| 2) | For each kennel authorized to house ten (10) or more, But less than 50 dogs or cats | \$100 |
| 3. | For each kennel authorized to house 50 or more dogs or cats | \$200 |
- (h) Every facility regulated by this Ordinance shall be considered a separate enterprise and requires an individual permit.
- (i) Persons operating kennels for the breeding of dogs and/or cats may elect to license such animals individually.
- (j) Any person who has a change in the category under which a permit was issued shall be subject to re-classification and appropriate adjustment of the permit fee shall be made if applicable. There will be no refund of any portion of the original fee for the original permit.

SECTION IV
LICENSE AND PERMIT ISSUANCE AND REVOCATION

- (a) Emery Town may revoke any permit or license if the person holding the permit or license refuses or fails to comply with this Ordinance, the regulations promulgated by said authorities, or any law governing the protection and keeping of animals, but only after said person is given a hearing with an opportunity to hear the evidence against him/her and to present evidence in his/her own defense and only after said licensing authorities shall make written findings of fact from such hearing which justify such revocation.
- (b) Any person whose permit or license is revoked shall within ten (10) days thereafter, deliver to the County Animal Shelter or any other licensed facility, or euthanize all animals owned, kept, or harbored by such person and no part of the permit or license fee shall be refunded.
- (c) It shall be a condition of the issuance of any permit or license that the Animal Control Officer shall be permitted to inspect all animals and the premises where animals are kept at anytime and shall, if permission for such inspections is refused, revoke the permit or license of the refusing owner.
- (d) If the applicant has withheld or falsified any information on the application, Emery Town and/or the Animal Control Officer shall refuse to issue a permit or license, or revoke the same if already issued.
- (e) No person who has been convicted of cruelty to animals shall be issued a permit or license to operate a commercial animal establishment.
- (f) Any person having been denied a license or permit may not re-apply for a period of 30 days. Each re-application shall be accompanied by a \$25 fee.

SECTION V
RESTRAINT

- (a) All dogs shall be kept under restraint so as not to become a public nuisance.
- (b) No owner shall fail to exercise proper care and control of his animals to prevent them from becoming a public nuisance.
- (c) Every female dog in heat shall be confined in a building or secured enclosure in such a manner that such female dog cannot come into contact with another animal except for planned breeding.
- (d) Every vicious animal, as determined by the Animal Control officer, shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner.

SECTION VI
CITIZEN COMPLAINTS

- (a) Any person with a formal complaint about unrestrained animals, vicious animals or animals that are a public nuisance and whom wants Emery Town to resolve

the complaint must present the formal complaint to the Town Office. A formal complaint must include the name, address and phone number of the person making the complaint, the nature of the complaint including date(s) and time(s) if applicable.

- (b) The owner of the violating animal will be contacted by the Animal Control Officer and informed of the complaint. The owner of the animal will be instructed to correct the violation immediately.
- (c) If a second complaint is received for the same violation the Animal Control Officer will contact the complainant and set a humane trap for two (2) calendar days at or near the residence of the complainant or the location where the violation occurred. If the dog reported to be in violation of this Ordinance is not captured within the two (2) calendar days that the trap is set, the trap will be removed and the complaint will be considered invalid.
- (d) Any animal in Town limits that has been deemed by the Mayor and Town Council as a public nuisance will be seized and transported to the animal shelter. Whether or not the animal will be returned to its owner will be decided by the mayor and Town Council.

SECTION VII

PENALTIES, VIOLATION NOTICE AND IMPOUNDMENT

- (a) If an animal in violation is captured the following penalties will apply:
 - (i) If by a license tag or other means the owner of an impounded animal can be identified, the Animal Control Officer shall contact the owner of the animal by telephone, mail or personal contact.
 - (ii) The animal will be impounded and confined in a humane manner.
 - (aa) The owner of the animal shall contact the Town Animal Control Officer and/or the Town Office during regular business hours to make arrangements to pay a \$25.00 fine.
 - (bb) For dogs: The owner of the animal shall produce copies of a current dog license and rabies vaccination. If the dog has not been licensed and/or vaccinated the owner of the animal will be given five (5) days to obtain and produce evidence of having obtained both to the Town Office. Applicable fines and penalties will be levied against the owner of the animal.
 - (cc) If the owner of the animal does not respond or cannot be located or does not wish to pay the fine the animal will be impounded in the County Animal Shelter.
- (b) Second Offense:
 - (i) The owner of the animal will be contacted by telephone, mail or personal contact and advised that the animal has been impounded in the County

Animal Shelter and must contact that entity for information on how to regain custody of the animal, including fines and penalties.

(c) Third Offense:

- (i) The animal will be impounded in the County Animal Shelter and the current license shall be revoked.

Livestock shall not be governed by this Ordinance to the extent they are under the regulation and control of the State Department of Agriculture or under provisions of the Utah Agriculture Code.

**SECTION VIII
ANIMAL CARE**

No owner shall fail to provide his animals with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.

No person shall beat, cruelly mistreat, torment, overload, overwork or otherwise abuse an animal, or cause, instigate, or permit any dog fight, cockfight, bullfight or other combat between animals and/or humans.

No owner of an animal shall abandon such animal.

- (a) Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop and render such assistance as may be reasonably possible and shall immediately report such injury or death to the owner of the animal; in the event the owner cannot be identified or located, such vehicle operator shall at once report the accident to the Town Animal Control Officer.

No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any animal, provided that it shall not be unlawful for a person to expose on his own property common rat poison mixed only with vegetable substance.

- (a) No animal shall be unreasonably or inhumanely confined.

**SECTION IX
KEEPING OF WILD ANIMALS**

- (a) No person shall keep or permit to be kept on his premises any wild or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee. This Section shall not be construed to apply to zoological parks, performing animal exhibitions or circuses or animals duly permitted and licensed by the State Division of Wildlife Resources.
- (b) No person shall keep or permit to be kept any type of wild animal as a pet.

**SECTION X
PERFORMING ANIMAL EXHIBITIONS**

