

CLEVELAND CITY AND EMERY COUNTY ORDINANCE NO. 7-9-80E

AN ORDINANCE PROVIDING FOR: THE HUMANE CONTROL AND REGULATION OF ANIMALS; REGISTRATION AND LICENSING OF DOGS, CATS, AND KENNELS; LICENSING AND ANIMAL CONTROL OFFICER; REQUIREMENT OF ISOLATION OF BITING ANIMALS; AND OTHER NECESSARY PURPOSES;

BE IT ORDAINED BY CLEVELAND CITY, A PUBLIC CORPORATION, STATE OF UTAH:

SECTION 1. 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 Cleveland City Councilmen to enforce the provisions of this Ordinance, including the collection of licensing and permit fees and the performance of other delineated duties; said officer shall, where feasible, meet the qualifications set forth in the Utah Code Annotated 76-9-302 (1953 ed.), as amended;

Animal Shelter: Any facility operated by a humane society, or municipal agency, or its authorized agents for the purpose of impounding or caring for animals held under the authority of the Ordinance or State law;

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;

City: Cleveland Town;

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

County: All unincorporated areas of Emery County;

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

Euthanasia/Humane Killing: Killing by any instantaneous and/or painless method;

Kennel: Any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, 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: Cleveland City and Emery County by and through their clerk and/or animal control officer;

Owner: Any person, partnership, or corporation owning, keeping or harboring one or more 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 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, however, that mere barking from a distance of 10 feet or greater shall not be considered molesting;
2. Attacks other animals;
3. Trespasses on school grounds;
4. Is repeatedly at large (other than cats);
5. Damages private or public property (including scattering garbage from garbage cans and depositing excreta on such property);
6. 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 person's commands, or within the real property lines of its owner;

Riding School or Stable: Any place which has available for hire, boarding and/or riding instruction, any horse, pony, donkey, mule, or burro;

Veterinary Hospital: Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases 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), racoon, 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 2. LICENSING

(a) Any person owning, keeping, harboring, or having custody of any dog over four months of age within Cleveland City must obtain a license as herein provided.

(b) Written application for licenses shall be made to the Cleveland City Animal Control Officer. Said application shall include name and address of applicant, description of the animal, the appropriate fee, and rabies certificate issued by a licensed veterinarian or anti-rabies clinic.

(c) If not revoked, licenses for the keeping of dogs shall be for a period of up to one year.

(d) Application for a license must be made within thirty days after obtaining a dog over four months.

(e) License fees shall not be required for seeing eye dogs or governmental police dogs.

(f) Upon acceptance of the license application and fee, the Animal Control Officer shall issue a durable tag stamped with an identifying number and the year of issuance. Tags should be designed so that they may be conveniently fastened or riveted to the animal's collar or harness.

(g) Dogs must wear identification tags or collars at all times when off the premises of the owners.

(h) The Animal Control Officer shall maintain a record of the identifying numbers of all tags issued and shall make this record available to the public.

(i) The licensing period shall begin with the calendar year and shall run for one year. Application for renewal license may be made thirty days before, and up to sixty days after, the start of the calendar year.

(j) Persons who fail to obtain a license as required within the time period specified in this section will be subjected to a fine of \$15 in addition to the fee.

(k) A license shall be issued after payment of the applicable fee:

	<u>1 Year</u>
1. For each unneutered male dog	\$15
2. For each unspayed female dog	15
3. For each neutered male dog	5
4. For each spayed female dog	5

(l) A duplicate license may be obtained upon payment of a \$5 replacement fee.

(m) No person may use any license for any animal other than the animal for which it was issued.

SECTION 3. 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 year. Renewal applications for permits shall be made thirty days prior to, and up to sixty days after, the start of the calendar year. Application for permit to establish a new commercial animal establishment under the provisions of the Ordinance may be made at any time.

(e) If there is a change in ownership of a commercial animal establishment, the new owner may have the current permit transferred to his name upon payment of a \$25 transfer fee.

(f) Annual permits shall be issued upon payment of the applicable fee:

1. For each kennel authorized to house less than 10 dogs or cats	\$ 50
2. For each kennel authorized to house 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
4. For each pet shop	75
5. For each riding stable	75
6. For each auction	50
7. For each zoological park	100
8. For each circus	100
9. For each performing animal exhibition (other than rodeos or local fairground activities)	50
10. For each grooming shop	50

(g) Every facility regulated by this Ordinance shall be considered a separate enterprise and requires an individual permit.

(h) Persons operating kennels for the breeding of dogs or cats may elect to license such animals individually.

(i) No fee may be required to any veterinary hospital, animal shelter, or government-operated zoological park.

(j) Failure to obtain a permit before opening any facility covered in this section shall result in a fine of \$299.

(k) Any person who has a change in the category under which a permit was issued shall be subject to reclassification and appropriate adjustment of the permit fee shall be made.

SECTION 4. LICENSE AND PERMIT ISSUANCE AND REVOCATION

(a) The Animal Control Officer 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 and to present evidence in his 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 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 any time 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, 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 thirty days. Each re-application shall be accompanied by a \$10 fee.

SECTION 5. 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.

(e) Any animal which bites, scratches or otherwise injures any human being or another animal shall be destroyed by the Animal Control Officer, unless he is satisfied that the animal can and will be controlled and confined so as to prevent any further danger to humans and other animals. The owner of such animal shall be guilty of a Class B Misdemeanor with a minimum fine of \$100 if the animal was or should have been known to be vicious.

SECTION 6. IMPOUNDMENT AND VIOLATION NOTICE

(a) Unrestrained dogs and nuisance animals shall be taken by the Animal Control Officer and impounded in the County animal shelter and there confined in a humane manner.

(b) Impounded dogs and cats shall be kept for not less than five working days.

(c) If by a license tag or other means, the owner of an impounded animal can be identified, the Animal Control Officer shall immediately upon impoundment notify the owner by telephone, mail, or personal contact.

(d) An owner reclaiming an impounded dog shall pay a fee of \$10, plus \$2 for each day the animal has been impounded.

(e) Any dog not reclaimed by its owner within five working days shall become the property of the local government authority and shall be placed for adoption in a suitable home or humanely euthanized if not claimed or adopted within 20 days of its impoundment, or sooner if conditions at the animal shelter require.

(f) In addition to, or in lieu of, impounding an animal found at large, the Animal Control Officer or the County Sheriff may issue to the known owner of such animal a citation for ordinance violation.

(g) 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 fall under provisions of the Utah Agricultural Code.

SECTION 7. ANIMAL CARE

(a) 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.

(b) No person shall beat, cruelly ill-treat, torment, overload, overwork, or otherwise abuse an animal, or cause, instigate, or permit any dogfight, cockfight, bullfight, or other combat between animals or between animals and humans.

(c) No owner of an animal shall abandon such animal.

(d) No person shall crop a dog's ears, except when a licensed veterinarian issues a signed certificate that the operation is necessary for the dog's health and comfort, and in no event shall any person except a licensed veterinarian perform such an operation.

(e) 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 animal's owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or to the local humane society.

(f) 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.

(g) No animal shall be unreasonably confined.

SECTION 8. 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 wild animal as a pet.

SECTION 9. PERFORMING ANIMAL EXHIBITIONS

(a) No performing animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical or manual devices in a manner which will cause, or is likely to cause, physical injury or suffering.

(b) All equipment used on a performing animal shall fit properly and be in good working condition.

SECTION 10. ANIMAL WASTE

The owner of every animal shall be responsible for the removal of any excreta deposited by his animal(s) on public walks, recreation areas, or private property.

SECTION 11. STERILIZATION

No unclaimed dog or cat shall be released for adoption without being sterilized, and the cost of such sterilization being paid by the adopting owner.

SECTION 12. ISOLATION OF BITING ANIMALS

Any animal which bites or, in the opinion of a licensed physician, otherwise exposes any person to the danger of any disease, shall be isolated in strict confinement, at the owner's expense, in the County animal shelter and observed for at least 14 days, 10 days for dogs and cats, after the day of infliction of the bite, with the exception that the following alternative to the ten day isolation of dogs and cats is permitted: Dogs and cats which have been isolated in strict confinement under proper care and under observation of a licensed veterinarian, in a pound, veterinary hospital or other adequate facility in a manner approved by the Animal Control Officer after five days of veterinary observation if upon conducting a thorough physical examination of the fifth day or more after inflicting of the bite, the observing veterinarian certifies that there are no clinical signs or symptoms of any disease. Notwithstanding the foregoing provisions, the Animal Control Officer may authorize, with the permission of the owner and other legal restrictions permitting, the euthanasia of a biting animal for the purpose of laboratory examination for rabies using the florescent rabies and antibody (FRA) test in an approved public health laboratory.

SECTION 13. DUTIES OF ANIMAL CONTROL OFFICER AND ENFORCEMENT

The following duties shall be imposed on the City Animal Control Officer:

(a) He shall see that all dogs and dog kennels in the incorporated areas of the City required to have a license or permit shall comply with this Ordinance.

(b) He shall collect the carcasses of all dead dogs, cats and animals other than livestock from the streets and other public places in the City and deliver them, together with the carcasses of all animals he shall have put to death as hereinafter provided, to such place as may be designated by the Councilmen.

(c) He shall issue all licenses required hereunder and collect fees therefor and shall keep an accurate account of all monies collected by him and from whom collected for all animal licenses, kennel permits and for any other services rendered by him in his capacity as Animal Control Officer, and to account for said funds to the City Auditor on or before the first day of each month following such collection.

(d) He shall keep a register showing the breed, sex and color of each animal impounded, and date and reason for such impounding and the disposition of such animal.

(e) He shall humanely kill an impounded animal as permitted or required by this Ordinance.

(f) It shall be a violation of this Ordinance to interfere with the Animal Control Officer in the performance of his duties.

SECTION 14. PENALTIES

Any person, individual, public or private corporation, government, partnership, or unincorporated association or firm violating any provisions of this Ordinance shall be guilty of a Class B Misdemeanor and shall be subject to imprisonment for not more than six months and/or a fine of not more than \$299.

SECTION 15. CONFLICTING ORDINANCES

All other ordinances of this City that are in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 16. SEVERABILITY CLAUSE

If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.

SECTION 17. EFFECTIVE DATE OF ORDINANCE

In the opinion of the Board of City Councilmen of Cleveland City, this Ordinance is necessary for the peace, health, and safety of Cleveland City and the inhabitants thereof; therefore, this Ordinance shall become effective immediately upon its passage and upon a copy being posted, in accordance with law, and upon a copy being deposited in the office of the Cleveland City Clerk, Cleveland, Utah.

Passed and approved by the Board of Cleveland City Councilmen this 18 day of January, 1985.

ATTEST:

Mary Queen
Recorder

Richard Larson
Mayor

Ronald Van Wagoner
Councilman

Ronald Kennedy
Councilman

Councilman