

**ORDINANCE 2021-03**

**AN ORDINANCE REGULATING THE ANIMAL CONTROL ORDINANCES**

**WHEREAS;** The City has several residents who own and raise animals and

**WHEREAS;** The City has sought to protect residents, animals, and neighbors; and

**WHEREAS;** The City has adopted various provisions regulating animal ownership; and

**WHEREAS;** The City desires to clarify its ordinances to correspond with best practices and other changes to benefit North Ogden residents.

**NOW THEREFORE, BE IT ORDAINED** by the North Ogden City Council that the North Ogden City Code be amended as follows.

**SECTION 1:** The North Ogden Code Title 6 Chapter 1 Section 2 be amended to read as follows.

**6-1-2: ADMINISTRATION**

A. Animal Control Supervisor And Animal Control Officers:

1. The office of animal control supervisor is hereby created. The chief of police is appointed to be the city's animal control supervisor until another person is appointed to the position by resolution of the city council. The chief of police, with the consent of the city council, may designate an officer to act as the city's animal control supervisor.
2. The animal control supervisor may appoint such other animal control officers as he shall deem necessary and for which the city council has allocated funding.
3. Animal control officers shall be considered employees of the police department.
4. Each animal control officer shall:
  - a. Take an oath of office,
  - b. Have authority to enforce the provisions of this chapter,
  - c. Be primarily engaged in the enforcement of this chapter and/or state laws relating to the control of animals.
5. The animal control supervisor, animal control officer or police officer shall have authority to apprehend and impound any animal found in violation of this chapter, including:
  - a. Animals for which a license is required which are found without a license, and
  - b. Animals which are at large.
6. In enforcing this chapter, the animal control supervisor, animal control officers and other peace officers are authorized to enter into the open premises of any person to take possession of any animal involved in the violation of this chapter. Nothing in this subsection, however, shall:

- a. Dispense with the need for an arrest or search warrant which would otherwise be required, or
  - b. Prevent an animal control officer from pursuing an animal into closed premises when the pursuit has been continuous and the officer has reasonable cause to believe the animal was off the premises in violation of this chapter.
7. Police officers may also enforce the provisions of this chapter.
- B. Duties Of Animal Control Supervisor And Animal Control Officers:
1. The animal control supervisor shall:
    - a. Enforce the terms of this chapter and perform other responsibilities assigned to him by the mayor,
    - b. Keep adequate records of all animals impounded and all monies collected,
    - c. See that all animals and holding facilities in the city are licensed, controlled and permitted in accordance with any applicable ordinances, regulations and/or laws and that all holding facilities are reasonably maintained and cleaned,
    - d. Establish, in cooperation with other cities, governmental agencies, humane organizations or others, adequate measures for rabies vaccination and control.
  2. The animal control supervisor may delegate any of the duties described in this subsection to a responsible animal control officer.
  3. Each animal control officer shall:
    - a. Enforce this section in all respects pertaining to animal control within the city, including the care and impounding of animals and prevention of cruelty to animals.
    - b. Carry out all duties prescribed in this chapter or delegated to the officer by the animal control supervisor or the mayor.
- C. Animal Shelter:
1. The city shall provide suitable premises and facilities for the keeping of impounded animals. The city council may designate any animal shelter maintained by another governmental agency or humane organization as the city's official shelter.
- D. Interference With Officer Prohibited:
1. It shall be unlawful for any person to interfere with the animal control supervisor, any animal control officer or any other peace officer in the discharge of the duties imposed upon him by this chapter.
  2. It shall be unlawful for any person to take any animal out of the custody of the animal control supervisor, any animal control officer, or any other peace officer by stealth, fraud or force.
  3. A violation of this subsection shall be a class B misdemeanor.

**SECTION 2:** The North Ogden Code Title 6 Chapter 1 Section 3 be amended to read as follows.

## **6-1-3 ANIMAL LICENSING AND PERMITS**

### **A. License Required:**

1. All dogs over six (6) months of age that reside in the city must be licensed each year. This includes dogs residing in the city that are being kept or used as therapy or service animals and active police service dogs as defined in CCNO 6-1-1.
2. All animal licenses issued by the city shall expire on December 31 of each year.
3. All new dogs within the city limits must be licensed.
4. Violation of this subsection A shall be an infraction.

### **B. Fees:**

1. The city shall issue animal licenses upon payment of the fees established by the city council by resolution.
2. Whenever a dog owner moves into the city or a person obtains a dog which will reside in the city the owner will be required to license the dog according to the following. If the dog is licensed between January 1 and June 30 a full year fee will be charged. For dogs licensed between July 1 and December 31 a half year fee will be charged. Half year fees apply only to new dogs.
3. The city will allow a reduction in animal license fees for dogs which have been spayed, neutered and microchipped, provided that the credit will not be granted unless the owner of the animal presents a certificate from a veterinarian certifying that the dog has been spayed, neutered or microchipped or other proof acceptable to the city. The city council shall set the amount of the discounts by resolution.
4. All license fees shall be paid at the city offices or another place approved by the city's finance director.
5. No refunds of license fees shall be made for any reason, unless they are approved by the animal control officer.
6. Owners who fail to license their dogs by March 1 of each year shall be subject to a late fee. The amount of the late fee shall be set by resolution of the city council.
  - a. Fees for failure to license shall be reduced when Owners comply with licensing requirements, by the amount of animal licensing fees paid by Owners within 30 days of citation.

### **C. Application For License:**

1. Before obtaining a license for an animal, the owner of the animal shall complete an application for license. The application shall be submitted on forms prepared by the city and shall contain:
  - a. The name, address and telephone number of the owner,
  - b. The number of dogs residing at that address,
  - c. The name, breed, color and sex of each dog residing at that address,
  - d. Whether the dog has been spayed, neutered and/or microchipped, and
  - e. Rabies vaccination expiration date.
2. The applicant shall supply proof that the animal to be licensed has up to date rabies vaccinations.
3. The applicant shall present proof of his or her identity and age at the time he or she submits the application to the city.

4. The city shall not issue animal licenses to persons younger than eighteen (18) years of age, unless that person is an emancipated minor.

D. Tags:

1. Upon payment of the license fee and any other fees or assessments, the city shall issue a license tag to the owner of the animal.
2. Every owner shall provide each of his or her dogs with a collar to which the tag may be affixed and shall ensure that the dog constantly wears the collar and the tag.
3. If an owner loses the license tag, the city will issue a replacement tag as follows:
  - a. The owner shall certify that the tag was lost,
  - b. The owner shall present a receipt showing that he or she paid the license fee for that year, and
  - c. The owner shall pay a replacement tag fee set by resolution of the city council.
4. Animal license tags are not transferable from one animal to another.

E. Tag Removal Or Transfer Prohibited:

1. It shall be unlawful to deprive a licensed dog of its collar and tag. It shall also be unlawful to place a license tag on an unlicensed dog. Violation of this subsection shall be an infraction.

F. Prohibited Acts: The following actions are prohibited:

1. Keeping any animal other than a household pet (as defined in CCNO 6-1-1) within the residential areas of the city unless such animal is a qualifying service, therapy dog or "active police service dog" as defined in CCNO 6-1-1 and obtains and possesses an appropriate permit and business license as described hereunder:
  - a. A permit as described in subsection L, "Other Animal Related Businesses Including Service Dog And Therapy Dog Related Businesses", of this section; and
  - b. A business license as described in CCNO 4-1.
  - c. Recognized therapy animal related businesses are limited to use of therapy dogs and may only be kept and/or operated by a professional person who is currently and properly licensed by the Utah division of occupational and professional licensing as a clinical social worker, psychiatrist, medical doctor, marriage and family therapist, physician's assistant, or nurse practitioner. Proof of such current licensing shall be required at the time of application for a permit and for any permit renewal under this subsection.
  - d. Keeping of therapy dogs or therapy dogs in training or operation of a therapy animal related business by any persons who do not meet the above stated professional licensing requirements shall be strictly governed by other animal ordinances contained in this code as they apply generally to animal owners including limits on animal ownership numbers.
2. Keeping "domesticated animals" (as defined in CCNO 6-1-1) outside of the RE-20 and R-1-8(AG) zones of the city.
3. Keeping any dangerous animal in the city, except as permitted in subsection I of this section or CCNO 6-1-6A.

4. Capturing any "wild animal" (as defined in CCNO 6-1-1) in the city, except that residents may trap wild animals that have become a nuisance under the supervision of an animal control officer.
5. Keeping swine (including potbellied pigs) at any location in the city.
6. Keeping any "wild animal" (as defined in CCNO 6-1-1) in the city.
7. Operating an animal boarding establishment, pet shop, grooming parlor, riding school, riding stable, or any other animal related business where not in compliance with City zoning ordinances and business license provisions.
8. Keeping, care for, ownership, or possession of three (3) or more dogs over six (6) months of age in the city without a kennel permit as described in subsection H of this section unless otherwise authorized under the exceptions described in subsection F14 or M of this section. Furthermore, it is unlawful at any household address for any person or persons to keep or possess a total of five (5) or more dogs over six (6) months of age including any combination of pets (limited to 2 pets per household address), any licensed therapy dogs and active police service dogs. In the event any person or persons at any household address owns, possesses or keeps any dogs as pets, such pet dogs shall count when calculating the total number of dogs (pet dogs, therapy dogs and active police service dogs) that may be permitted at any household or address.
9. Keeping, care for, ownership, or possession of a combined total of five (5) or more therapy dogs or therapy dogs in training and dogs kept, cared for, owned or possessed as pets, over six (6) months of age in any zone in the city without a kennel permit as described in subsection H of this section.

#### G. Kennels:

1. It shall be unlawful for any person to operate or maintain a kennel unless the person first obtains a ~~regulatory~~ permit from the North Ogden planning department, all other required licenses and a conditional use permit as described in the city's zoning ordinance.
2. Nothing in this subsection H shall relieve the operator of a kennel from the obligation to comply with all business license laws, zoning ordinances, health regulations or other applicable laws, statutes, ordinances, rules or regulations.

#### H. Exemptions:

1. Research facilities where bona fide medical or related research is conducted, humane shelters and other animal facilities established by state or local government agencies or which are licensed under federal law shall be exempt from the licensing and permit requirements of this section.
2. Active police service dogs shall be exempt from the limitation of pets per household address as described in subsection F8 of this section.
3. This section shall not apply to individuals whose animals have less than three (3) litters of offspring in a twelve (12) month period. Individuals whose animals have

three (3) or more litters of offspring a year shall be required to obtain a kennel permit.

- I. Inspections: All establishments required to obtain permits under this section shall be subject to periodic inspections by the animal control supervisor or his delegate. The inspector shall make a report of each inspection. The inspector shall give a copy of the inspection to the holder of the permit and shall file the original report with the city. Inspection reports shall be public documents.
- J. Suspension Or Revocation Of Permits Or Licenses:
  1. A permit or license for an animal related business may be suspended or revoked or a permit application rejected for any one or more of the following grounds:
    - a. Falsification of facts in any permit or license application or in the case of a service animal related business, suspension, expiration, termination or withdrawal of the applicant's required professional licensing;
    - b. Violation of any of the provisions of this chapter or any other law or regulation governing the keeping of the permitted or licensed animals, including, but not limited to, noise laws, nuisance laws, building codes, or zoning ordinances;
    - c. Conviction on a charge of cruelty to animals or mistreatment of animals, regardless of whether the animals involved in the charge are the same animals permitted or licensed;
    - d. Other good cause determined by the animal control officer.
  2. If an inspection of the premises of any person holding a permit or license under this section reveals a violation of this chapter, the person conducting the inspection shall notify the permit or license holder of the violations by leaving a copy of the inspection report or other written notice with the permit or license holder. If the permit or license holder is not available, the person conducting the inspection may leave the notice with any responsible person over sixteen (16) years of age at the facility. If no responsible person is available, the inspector may serve the notice on the permit or license holder by sending the notice by certified mail to the last known address of the permit or license holder. The written notice shall:
    - a. Describe the specific nature of the violations the inspector found;
    - b. Establish a specific and reasonable period of time for the permit or license holder or the operator of the facility to correct the violations; and
    - c. State that failure to comply with the notice and the terms of this chapter may result in revocation or suspension of the permit or license.
  3. If the permit or license holder fails to correct the violations in the time specified in the notice, the inspector shall notify the permit or license holder of the city's intention to revoke or suspend the license or permit. The notice shall:
    - a. Give the date, time and place that the Administrative Law Judge and/or Administrative Hearing Officer (ALJ/AHO) will consider the matter. The time of the hearing shall be no less than fourteen (14) days from the date of the notice;
    - b. Inform the permit or license holder of his or her right to be present at the hearing;
    - c. Inform the permit or license holder that if he or she does not appear at the hearing, the city may revoke or suspend the permit or license in the permit or license holder's absence;

- d. Inform the permit or license holder of his or her right to be represented by counsel at the hearing;
  - e. Inform the permit or license holder of his or her right to question witnesses presented by the city; and
  - f. Inform the permit or license holder of his or her right to call witnesses and present other evidence on his or her own behalf during the hearing.
4. At the time and place set for the hearing, the ALJ/AHO shall hold a hearing on whether the permit or license should be suspended or revoked. The city may present witnesses and evidence on the issue and the permit or license holder shall also have an opportunity to present witnesses and evidence. At the close of the hearing, the ALJ/AHO shall vote on whether to suspend or revoke the license and
  5. If the ALJ/AHO decides to suspend the permit or license, it shall set a minimum time of the suspension, which shall be at least six (6) months, and the council ALJ/AHO shall order that the license may not be reinstated until the specified time has run and all of the violations have been corrected.
  6. Notwithstanding the procedures for suspension or revocation above, the animal control supervisor or animal control officer may, without warning or a hearing, suspend any permit or license issued under this chapter if he finds that the condition of the premises of the permit or license holder constitute a substantial and immediate threat to the health, welfare or safety of the residents of the city.
    - a. If the animal control supervisor or animal control officer suspends any permit or license under this subsection O7:
      - (1) The animal control supervisor or animal control officer shall impound the animals and take other steps to mitigate the threat; and
      - (2) The ALJ/AHO shall review the action as soon as practicable and the permit or license holder shall be given notice of the hearing.
    - b. If the ALJ/AHO finds that the animal control supervisor's actions were justified, it shall:
      - (1) Order that the permit or license holder pay all costs of impounding the animals;
      - (2) Order that the permit or license holder pay all remediation costs incurred by the city;
      - (3) Order that the animals either:
        - (A) Continue to be impounded until the permit or license holder's premises comply with the provisions of this chapter and any other applicable law, including health and building codes;
        - (B) Be abated; or
        - (C) Be made available for sale or adoption to third parties.

K. Litter Animals:

1. Notwithstanding the other provisions of this chapter, the owner of a household pet kept in a residential zone which delivers a litter may sell or give away the litter animals under the following conditions:

- a. The owner shall have three (3) months to dispose of all of the litter animals which exceed the number of animals the owner may lawfully keep.
  - b. The owner may sell the litter animals or give them away.
  - c. The owner may use reasonable methods to advertise the availability of the litter animals, provided that no advertising method may result in a violation of the city's sign or zoning ordinances.
2. No person shall use the provisions of this subsection P to avoid obtaining a business license or a regulatory license described in this section.
    - a. A person shall be presumed to be using this subsection P to avoid obtaining a business or regulatory license if he sells or gives away more than two (2) litters in a single year.

**SECTION 3:** The North Ogden Code Title 6 Chapter 1 Section 7 be amended to read as follows.

**6-1-7: NUISANCE ANIMALS AND ABATEMENT**

- A. Nuisance Animals Prohibited: Any owner of any animal(s) causing a nuisance as defined in CCNO 6-1-1 shall be guilty as follows:
1. The owner of an animal that causes any damage to the property of anyone other than its owner shall be guilty of an infraction;
  2. The owner of a vicious dog or "vicious animal" as defined herein and kept contrary to CCNO 6-1-6 shall be guilty of a class B misdemeanor;
  3. The owner of a "dangerous animal" (as defined herein), which is kept by any person other than a publicly licensed and supervised zoo or zoological garden, a duly authorized and licensed circus or educational institution shall be guilty of a class B misdemeanor;
  4. The owner of an animal that causes unreasonable fouling of the air by odors shall be guilty of an infraction;
  5. The owner of an animal that causes unsanitary conditions in enclosures or surroundings shall be guilty of an infraction;
  6. The owner of an animal that defecates on any public sidewalk, park, building, or private property without the consent of the owner of such private property unless the person owning, having a proprietary interest in, or having care, charge, control or custody of such animal shall remove any such defecation to a proper trash receptacle shall be guilty of an infraction;
  7. The owner of an animal that barks, whines, howls or makes other disturbing noises in an excessive, continuous, or untimely or unreasonable manner, which disturbs any person or neighborhood shall be guilty of an infraction.
  8. The owner of an animal that molests passersby or chases passing vehicles, including automobiles, trucks, bicycles, scooters or other motorized or unmotorized vehicles shall be guilty of an infraction;
  9. The owner of an animal that attacks other animals shall be guilty of a class B misdemeanor;



10. The owner of an animal that is determined by the animal control officer to be a public nuisance by virtue of being offensive or dangerous to public health, welfare or safety shall be guilty of a class B misdemeanor; or
11. The owner of animals that, by virtue of the number maintained, are determined to be offensive or dangerous to the public health, welfare, or safety shall be guilty of an infraction.

B. Abatement Of Nuisance Animals:

1. Notice: When it reasonably appears to the animal control supervisor or any animal control officer that any animal is a "nuisance animal" as defined in CCNO 6-1-1, he or she shall notify the owner of the animal of a hearing with regards to the matter. The notice shall contain a description of the facts supporting the conclusion that the animal is a nuisance animal.
2. Petition: The animal control supervisor or animal control officer shall file with the city's Administrative Law Judge and/or Administrative Hearing Officer (ALJ/AHO) a petition to have the animal declared a nuisance animal and abated. The petition shall set forth:
  - a. All facts supporting the allegation that the animal is a nuisance; address of the owner of the animal.
3. Notice Of Hearing: Upon receipt of the petition from the animal control supervisor or animal control officer the ALJ/AHO shall set a hearing in the matter and notify the owner. The hearing shall be held not less than ten (10) days after the date of the notice. A notice of the hearing shall be sent to the owner by certified or registered mail and shall contain:
  - a. The date, time and place of the hearing;
  - b. A description of the alleged facts supporting the contention that the animal is a nuisance;
  - c. A statement that the owner may attend the hearing, may be represented by counsel and may present evidence in his or her own behalf and may cross examine witnesses presented by the city;
  - d. A statement that if the owner does not appear at the hearing, the court ALJ/AHO will:
    - (1) Accept the allegations of the animal control supervisor or animal control officer as true;
    - (2) Find that the animal is a nuisance;
    - (3) Order the destruction of the animal; and
    - (4) Order the owner to pay the costs of impounding and keeping the animal prior to the hearing and the costs of destroying the animal.
4. Agreement: At any time the owner of the animal may enter into a written agreement stipulating that the animal is a nuisance and a method of abating the animal. The agreement and the method of abating the nuisance shall be approved by the animal control supervisor or animal control officer. If the parties agree that the animal is a nuisance, but are unable to agree on a method of abating the nuisance, the ALJ/AHO may decide the appropriate method of abating the animal as provided in this subsection B.

5. Hearing: At the time and place described in the notice, the justice ALJ/AHO shall hold a hearing on the issue of whether the animal is a nuisance and whether destruction or removal of the animal is necessary to abate the nuisance.
  - a. If the owner fails to appear at the hearing, the ALJ/AHO shall find that the animal is a nuisance and order its destruction as set forth herein.
  - b. If the owner appears at the hearing, the ALJ/AHO may consider any evidence presented by the owner or the city which it may consider relevant to determine whether the animal is a nuisance.
  - c. The city shall bear the burden of proving that the animal is a nuisance and the measures which are necessary to abate the nuisance. Both issues shall be decided based upon a preponderance of the evidence.
6. Findings: Within ten (10) days of the conclusion of the hearing, the justice court ALJ/AHO shall make findings regarding the animal as described in this subsection.
  - a. The justice ALJ/AHO shall first make a finding regarding whether the animal is a nuisance.
    - (1) If the ALJ/AHO finds that the animal is not a nuisance:
      - (A) The ALJ/AHO need not make any further findings regarding disposition of the animal.
      - (B) A finding that the animal is not a nuisance under this subsection shall not preclude a finding that the animal was running at large, barking excessively or otherwise in violation of the law.
    - (2) If the ALJ/AHO finds that the animal is a nuisance:
      - (A) It shall also enter a finding regarding the measures necessary to abate the nuisance.
  - b. In ruling on the abatement of nuisance animals, the ALJ/AHO shall proceed as follows:
    - (1) The ALJ/AHO may find that the nuisance may be abated by restricting the animal to the premises of the owner. In that case, the ALJ/AHO shall order that the animal shall be restricted to the premises of the owner, and the owner's failure to confine the animal to those premises shall be a contempt of ALJ/AHO.
    - (2) The ALJ/AHO may find that the nuisance may be abated by removing the animal from the city. In that case, the ALJ/AHO shall order that the animal be removed from the city and any person returning the animal to the city with knowledge of the ALJ/AHO's order shall be liable for contempt of ALJ/AHO.
    - (3) The ALJ/AHO may find that the nuisance may only be abated by destroying the animal. The ALJ/AHO shall find that an animal must be destroyed if:
      - (A) the evidence presented during the hearing establishes that the animal has made two (2) or more unprovoked attacks on persons, regardless of whether the persons attacked were the owners, members of the owner's household, or any other person,
      - (B) the first attack is deemed severe enough to warrant destruction in the judgment of the animal control officer. In that case, the ALJ/AHO shall issue a written order for the destruction of the animal and shall deliver the order to the animal control supervisor. The animal control supervisor

shall destroy the animal within five (5) days of the date he or she receives the order unless the destruction is stayed by a ALJ/AHO of competent jurisdiction. The owner shall pay the costs of destroying the animal.

7. No Bar To Criminal Proceedings: Nothing contained in this subsection B shall prevent or bar the city from proceeding with criminal prosecution of the owner in addition to seeking a determination that the animal is a nuisance.

**SECTION 4:** This ordinance shall take immediate effect.

**PASSED and ADOPTED this 12<sup>th</sup> day of January 2021.**

**North Ogden City:**

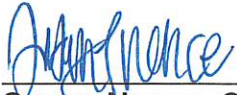


**S. Neal Berube**  
**North Ogden City Mayor**

**CITY COUNCIL VOTE AS RECORDED:**

	<b>Aye</b>	<b>Nay</b>
<b>Council Member Barker:</b>	<u>  X  </u>	___
<b>Council Member Cevering:</b>	<u>  X  </u>	___
<b>Council Member Ekstrom:</b>	<u>  X  </u>	___
<b>Council Member Stoker:</b>	<u>  X  </u>	___
<b>Council Member Swanson:</b>	<u>  X  </u>	___
<b>(In event of a tie vote of the Council):</b>		
<b>Mayor Berube</b>	___	___

ATTEST:



Susan Nance, CMC  
Interim City Recorder

