

PUBLIC NOTICE

Notice is hereby given that the Tooele City Council and the Redevelopment Agency (RDA) of Tooele City will meet in a Work Meeting, on Wednesday, July 19, 2023, at 6:00 p.m. The meeting will be held in the Tooele City Hall Council Chambers, located at 90 North Main Street, Tooele, Utah. The complete public notice is posted on the Utah Public Notice Website www.utah.gov, the Tooele City Website www.tooelecity.org, and at Tooele City Hall. To request a copy of the public notice or for additional inquiries please contact Michelle Pitt, City Recorder at (435)843-2111 or michellep@tooelecity.org

We encourage you to join the City Council meeting electronically by visiting the **Tooele City YouTube Channel**, at <https://www.youtube.com/@tooelecity> or by going to YouTube.com and searching "Tooele City Channel".

AGENDA

1. **Open City Council Meeting**
2. **Roll Call**
3. **Mayor's Report**
4. **Council Members' Report**
5. **Discussion Items**

Ordinance 2023-32 An Ordinance of Tooele City Amending Tooele City Code Title 6
Regarding Animal Control

Presented by Darwin Cook, Parks and Recreation Director, and Police Chief Adrian Day

6. **Closed Meeting**
~ Litigation, Property Acquisition, and/or Personnel
7. **Adjourn**

Michelle Y. Pitt, Tooele City Recorder

Pursuant to the Americans With Disabilities Act, individuals needing special accommodations should notify Michelle Y. Pitt, Tooele City Recorder, at 435-843-2111 Or Michellep@Tooelecity.Org, prior to the meeting.

TOOELE CITY CORPORATION

ORDINANCE 2023-32

AN ORDINANCE OF TOOELE CITY AMENDING TOOELE CITY CODE TITLE 6 REGARDING ANIMAL CONTROL.

WHEREAS, Tooele City Code Title 6 governs the Animal Control Division and the Animal Shelter; and,

WHEREAS, Animal Control and Animal Shelter responsibilities have been divided administratively between the Tooele City Police Department and the Parks and Recreation Department, respectively; and,

WHEREAS, the City Administration recommends that Animal Control impound responsibilities, and Animal Shelter responsibilities, should be limited to domesticated dogs and cats, and not include livestock, farm animals, exotic or wild animals, small animals, birds, and other animals, for which the Animal Control Division and the Animal Shelter have neither the personnel, equipment, facilities, space, expertise, nor resources to feed and care for; and,

WHEREAS, the City Administration recommendation is reflected in the proposed amendments to Title 6 shown in Exhibit A:

NOW, THEREFORE, BE IT ORDAINED BY THE TOOELE CITY COUNCIL that Tooele City Code Title 6 is hereby amended as shown in Exhibit A; and,

This Ordinance is necessary for the immediate preservation of the peace, health, safety, and welfare of Tooele City and its residents and businesses and shall become effective upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Ordinance is passed by the Tooele City Council this ____ day of _____, 2023.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form:

Roger Evans Baker, City Attorney

Exhibit A

Proposed Amendments to Tooele City Code Title 6 (Animal Control/Animal Shelter)

TITLE 6. ANIMAL CONTROL

- Chapter 1. Animal Control Division; Powers and Authority.**
- Chapter 2. Definitions.**
- Chapter 3. Licensing.**
- Chapter 4. Animals at Large.**
- Chapter 5. Nuisance Animals.**
- Chapter 5a. Repealed.** (Ord. 2003-28, 12-17-2003)
- Chapter 5b. Aggressive Animals.**
- Chapter 6. Rabies Control.**
- Chapter 7. Impounding.**
- Chapter 8. Animal Shelter.**
- Chapter 9. Cruelty to Animals.**
- Chapter 10. Wild Animals.**
- Chapter 11. Regulatory Permits; Kennels.**
(Ord. 2017-07, 03-15-2017)
- Chapter 12. Repealed.** (Ord. 88-28; 09-07-1988)
- Chapter 13. Repealed.** (Ord. 88-28; 09-07-1988)
- Chapter 14. Repealed.** (Ord. 96-02; 02-07-1996)

CHAPTER 1. ANIMAL CONTROL DIVISION; POWERS AND AUTHORITY

- 6-1-1. Division of Animal Control.**
- 6-1-2. Powers of Division personnel.**
- 6-1-3. Duties of Division personnel.**
- 6-1-4. Interference with officer prohibited.**

6-1-1. Division of Animal Control.

There shall be a Division of Animal Control as a Division within the Tooele City Police Department.
(Ord. 2017-07, 03-15-2017) (Ord. 2003-28, 12-17-03)
(Ord. 1981-14, 05-25-1981)

6-1-2. Powers of Division personnel.

(1) The Division commander and all Division and Department officers shall take the oath of office and shall be vested with the power and authority to enforce the provisions of this Title.

(2) Division and Department officers are hereby authorized and empowered to apprehend, transport, and impound ~~domesticated dogs and cats~~ ~~any animal~~ found in violation of this Title, ~~or any animal involved in a violation of State of Utah law~~, including licensable ~~dogs and cats~~ ~~animals~~ for which no license has been procured in accordance with this Title, and any licensed or unlicensed ~~dogs or cats~~ ~~animals~~ for any other violations of this Title.

(3) -Division and Department officers shall have the power to enter into any building or upon any property within the city when they have probable cause to believe that there exists in any building and/or upon any property any violation of the provisions of this Title or other applicable law, provided that:

(a) -If such building and/or property is presently occupied, enforcement personnel shall first present proper

credentials to the occupant and request entry, explaining the reasons therefor; and if such building and/or property is unoccupied, enforcement personnel shall first make a reasonable effort to locate the owner thereof or other persons having authority over the building and/or property and request entry, explaining the reasons therefor. If entry into said building or upon said property be refused or the owner of the property or building cannot be located, an officer shall obtain a warrant for the entry and inspection of said building and/or said property.

(b)- Notwithstanding the provisions of Subsection (a), if an officer has probable cause to believe that a violation of this Title has occurred and that exigent circumstances exist such that it reasonably appears that a person or animal may be in peril of death or bodily injury, the officer shall have the power to immediately enter and inspect such building and/or property and may use any reasonable means required to effect such entry and make such inspection, whether such building and/or property is occupied or unoccupied, and whether or not permission to inspect has been obtained. If the building and/or property is occupied, the officer shall present proper credentials to the occupant and explain the reasons for the entry. Additionally, the provisions of Subsection (a) shall not prohibit the an officer from entering upon unenclosed private property while pursuing an animal in violation of this Title.

(Ord. 2017-07, 03-15-2017) (Ord. 2003-28, 12-17-03)
(Ord. 1981-14, 05-25-1981)

6-1-3. Duties of Division personnel.

(1) The Division commander will:

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

(b) Supervise Division personnel; ~~including the operation of the animal shelter.~~

(c) Keep adequate records of all animals impounded ~~and all monies collected.~~

~~(d) See that all animals and animal holding facilities in the Division's jurisdiction are licensed, controlled, and permitted in accordance with any applicable laws and regulations.~~

~~(e) Establish, in cooperation with the Tooele City-County Health Department and other interested governmental agencies, adequate measures for rabies immunization and control.~~

(2) Each officer shall:

(a) Enforce this Title in all respects pertaining to animal control within Tooele City, including the ~~care and~~ impounding of animals, and prevention ~~and prosecution~~ of cruelty to animals.

(b) Carry out all duties prescribed or delegated by the commander.

(Ord. 2017-07, 03-15-2017) (Ord. 2003-28, 12-17-03)
(Ord. 1981-14, 05-25-1981)

6-1-4. Interference with officer prohibited.

Any person who intentionally or recklessly interferes

with any officer in the lawful discharge of the officer's duties as set forth in Title 6 shall be guilty of a class B misdemeanor.
(Ord. 2017-07, 03-15-2017) (Ord. 2003-28, 12-17-03)
(Ord. 1981-14, 05-25-1981)

CHAPTER 2. DEFINITIONS

6-2-1. Definitions.

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Title, shall have the meanings hereinafter designated:

-"Animal" means any live, non-human vertebrate creature, whether wild or domesticated. **In the context of provisions regarding domesticated dogs and cats, "animal" refers specifically to dogs and cats.**

"Animal boarding establishment" means any establishment that takes in animals for boarding for profit.

"Animal grooming parlor" means any establishment maintained for the purpose of offering cosmetological services to animals for profit.

"Animal shelter" and "shelter" means a public or private facility owned or operated by a governmental entity, by an established animal welfare society, or by a veterinarian and used for the care and custody of seized, stray, homeless, quarantined, abandoned, or unwanted dogs **and cats or other small domestic animals.**

"Animal at large" means any domesticated **dog or cat animal**, whether or not licensed, not under restraint.

"Animal under restraint" means any **dog or cat animal** under the control of a person, except **that** a dog shall not be considered under restraint unless on a leash or lead, within a secure enclosure, or otherwise securely confined.

"Attack" or "attacking" means any menacing action by an animal which places a person or another animal in danger of imminent physical pain or impairment of physical condition. Actual physical contact shall not be required to constitute an attack. Attacking shall include **biting, attempting to bite, chasing, tackling, nipping, or otherwise threatening.**

"Bite" or "biting" means an animal's use of teeth upon a person or animal whether or not an injury actually results.

"Cat" means any feline of the domesticated types over four months of age. Any feline under four months of age is a kitten.

"Cattery" means a location where a person engages in boarding, breeding, buying, grooming, sheltering, or selling cats.

"Community cat" See Utah Code 11-46-302, as amended.

"Community cat caretaker" See Utah Code 11-46-302, as amended.

"Community cat colony" See Utah Code 11-46-302, as amended.

"Community cat program" See Utah Code 11-46-302, as amended.

"Commander" means the supervisor of the Division of Animal Control.

"Department" means the Tooele City Police Department.

"Division" means the Division of Animal Control, a

division of the Tooele City Police Department.

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

"Domesticated animal" means an animal accustomed to living in or about the habitation of humans and other animals, including cats, ~~dogs, and farm animals, fowl, horses, swine and goats.~~

"Ear-tipping" See Utah Code 11-46-302, as amended.

"Farm animal" See TCC 7-1-5.

"Feral" See Utah Code 11-46-302, as amended.

"Guard dog" means a working dog which is kept under strict control such that it cannot come into direct contact with the public, including in a fenced run or other secure enclosure, or on a leash or lead, and located on a business premises as part of the business premises security.

"Harbor" means keeping, feeding, maintaining, sheltering, exercising ownership of, or caring for an animal.

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

"Impoundment" means **the taking of an animal taken** into the custody of the **Shelter, Division, or Department.**

"Kennel" means a location where a person engages in boarding, breeding, buying, letting for hire, training for a fee, or selling dogs.

"Leash or lead" means any chain, rope, or other similar device used to restrain an animal.

"Officer" means an Animal Control Division officer and a Department peace officer.

"Person" means an individual and any legal entity, including a corporation, firm, partnership, or trust.

"Pet" means a domesticated animal kept for pleasure rather than utility, including, but not limited to birds, cats, dogs, fish, hamsters, mice, and other animals associated with the human environment. Pet does not include **wild animals, exotic animals, farm animals, or livestock** unless expressly included under other provisions of this Code.

"Pet shop" means any establishment containing cages or exhibition pens, not part of a kennel or cattery, wherein dogs, cats, birds, or other pets are kept or displayed for sale.

"Provoked," "provoking," or "provocation" means any act by a person towards a dog or any other animal done recklessly, knowingly, or intentionally, ~~to~~ tease, torment, abuse, assault, or otherwise cause a reaction by the dog or other animal, provided however, that any act by a person done with the intention to discourage or prevent a dog or other animal from attacking or biting shall not be considered to be a provocation.

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

"Riding school" and "stable" mean an establishment

which provides boarding or riding instruction for any horse, pony, donkey, mule, or burro, or which offers such animals for hire.

“Service animal” means an animal defined as a service animal by the U.S. Department of Justice, and includes a dog that is individually trained and certified to do work or perform tasks for a person with a disability.

“Sponsor of a community cat colony” See Utah Code 11-46-302, as amended.

"Stray" means any animal at large.

“Supervisor” means an animal shelter manager or officer manager, under the supervision of the commander.

"Wild animal," and "exotic animal" mean any animal which is not commonly domesticated, or which is of a predatory nature that would constitute an unreasonable danger to human life, health, or property if not kept or confined in a safe and secure manner, including those animals which, as a result of their natural condition, cannot be vaccinated effectively for rabies. Those animals, however domesticated, shall include the following:

- (a) Alligators and crocodiles.
- (b) Bears (ursidae).
- (c) Cat family (felidae). All except the commonly accepted domesticated cats, and including cheetah, cougars, leopards, lions, lynx, panthers, mountain lions, tigers, and wildcats.
- (d) Dog family (canidae). All except domesticated dogs, and including wolf, part wolf, fox, part fox, coyote, and part coyote.
- (e) Porcupine (erethizontidae).
- (f) Primate (hominidae). All subhuman primates, including apes, gorillas, monkeys, and lemurs.
- (g) Raccoon (procyonidae). All raccoons including eastern raccoon, desert raccoon and ring-tailed cat.
- (h) Skunks, except skunks that are descended and neutered or spayed.
- (i) Venomous fish and piranha.
- (j) Venomous snakes and lizards.
- (k) Weasels (mustelidae). All weasels, including martens, wolverines, badgers, otters, ermine, mink, mongoose, and ferrets, but excepting domesticated ferrets.

(Ord. 2020-07, 03-04-2020) (Ord. 2017-07, 03-15-2017)
(Ord. 2008-11, 11-05-2008) (Ord. 2006-19, 08-16-2006)
(Ord. 2003-28, 12-17-2003) (Ord. 1988-28,09-07-1988)

CHAPTER 3. LICENSING

6-3-1. Dog and cat Animallicensing requirements.

6-3-2. License tag.

6-3-3. Licensing exemptions.

6-3-4. Penalties.

6-3-1. Dog and cat Animallicensing requirements.

(1) All dogs and cats within Tooele City must be licensed each year, except as otherwise provided herein.

(2) 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 10 days of the acquisition of the dog or cat.

(3) License renewal applications must be submitted annually to the Finance Department, utilizing a standard form which includes the name, address, and telephone number of the applicant; the name, breed, sex, color, and age of the animal; and full rabies immunization information. The application shall be accompanied by the prescribed license fee and by a current rabies vaccination certificate.

(4) Dog and cat license fees shall be as contained in the Tooele City Fee Schedule established by resolution of the City Council.

(5) No dog or cat will be licensed as spayed or neutered without proof that the animal has been sterilized such surgery was performed.

(6) The license shall be effective from the date of purchase through December 31 of the license year. A late fee shall be imposed upon licenses renewed after February 28, the end of February of the following year, after which a late fee shall be imposed. Licenses for the following year may be purchased as early as October 1, 90 days prior to the expiration of any year's license.

(7) No person or persons may own or harbor at any one residence within Tooele City any combination of dogs and cats that exceeds a total of 4 animals.

(Ord. 2017-07, 03-15-2017) (Ord. 2008-11, 11-05-2008) (Ord. 2003, 12-17-2003) (Ord. 1994-55, 12-08-1994) (Ord. 1994-17, 03-15-1994) (Ord. 1988-28, 09-07-1988)

6-3-2. License tag.

(1) Upon payment of the license fee, the Finance Department shall issue to the owner a certificate and a tag for each dog and cat licensed. The tag shall have stamped thereon the license number corresponding with the tag number of the certificate. The owner shall attach the tag to the collar or harness of the animal and see that the collar and the tag are constantly worn. Failure to attach the tag as provided shall be a violation of this Chapter.

(2) License tags are not transferable from one animal to another. No refunds will be made on any license fee for any reason whatsoever. Replacements for lost or destroyed tags shall be issued upon payment of the required fee, \$5.00 to the Finance Department.

(3) Removing or causing to be removed, the collar, harness, or tag from any licensed dog or cat without the consent of the owner or keeper thereof, except a licensed veterinarian, Shelter personnel, or a Division officer, shall be a violation of this Chapter.

(Ord. 2017-07, 03-15-2017) (Ord. 2003-28, 12-17-2003) (Ord. 1981-14, 05-25-1981)

6-3-3. Licensing - exemptions.

(1) The licensing and fee provisions of Section 6-3-1 and 6-3-2 herein shall not apply to:

(a) individual dogs and cats within a properly licensed dog kennel, cattery, or other such establishment when such dogs or cats are held for resale.

(b) community cats that belong to a community cat colony as defined by Utah Code 11-46-302, as amended.

(2) The fee provisions of Sections 6-3-1 and 6-3-2 shall not apply to:

(a) Service animals.

(b) Dogs especially trained and used to assist officers and other officials of government agencies in the performance of their official duties.

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

(Ord. 2020-07, 03-04-2020) (Ord. 2017-07, 03-15-2017) (Ord. 2003-28, 12-17-2003) (Ord. 1981-14, 05-25-1981)

6-3-4. Penalties.

Every person who violates any provision of this Chapter is guilty of an Infraction.

(Ord. 2020-33, 08-19-2020) (Ord. 2003-28, 12-17-2003)

CHAPTER 4. ANIMALS AT LARGE

6-4-1. Unlawful to harbor stray animals.

6-4-2. Animals running at large.

6-4-3. Animals on unenclosed premises.

6-4-4. Female animals in heat.

6-4-5. Places prohibited to animals.

6-4-6. Penalties.

6-4-1. Unlawful to harbor stray animals.

It is unlawful for any person to harbor any lost or strayed animal, except for community cats. Whenever any animal shall be found which appears to be lost or strayed, it shall be the duty of the finder to notify the Division within 24 hours, and the Division shall impound the animal as herein provided.

(Ord. 2020-07, 03-04-2020) (Ord. 2017-07, 03-15-2017)

(Ord. 2003-28, 12-17-2003) (Ord. 1981-14, 05-25-1981)

6-4-2. Animals running at large.

It is unlawful for the owner or person having charge, care, custody, or control of any animal to allow such animal to run at large at any time. 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 such person knows the animal is running at large.

(Ord. 2017-07, 03-15-2017) (Ord. 1990-16, 09-11-1990)

6-4-3. Animals on unenclosed premises.

It is unlawful for any person to chain, stake out, or tether an 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 owners of all affected adjacent properties, **and provided that the animal shall not be permitted to go beyond the property line into the public right-of-way, including onto the public sidewalks.**

(Ord. 2017-07, 03-15-2017) (Ord. 1981-25, 05-21-1981)

6-4-4. Female animals in heat.

It shall be unlawful for any owner or person having charge, care, custody, or control of any female animal in heat, in addition to restraining such animal from running at large, to fail to cause such animal to be constantly confined in a building or secure enclosure, except for planned breeding purposes.

(Ord. 2017-07, 03-15-2017) (Ord. 1981-14, 05-25-1981)

6-4-5. Places prohibited to animals.

(1) It is unlawful for any person to take or permit any animal, whether loose or on a leash or in the 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 is unlawful for any person keeping, harboring, or having charge, care, custody, or control of any animal to allow the animal to be within Zone 1 of any designated groundwater source protection area (within a 100-foot radius of a wellhead or spring collection area).

(3) This Section shall apply to community cat colonies.

(4) This Section shall not apply to service animals, as defined.

(Ord. 2020-07, 03-04-2020) (Ord. 2017-07, 03-15-2017)

(Ord. 2003-28, 12-17-2003) (Ord. 1981-14, 05-25-1981)

6-4-6. Penalties.

Every person who violates any provision of this Chapter is guilty of **an Infraction.**

~~(1) an Infraction for domesticated dogs and cats that are identified as a particular individual's pets;~~

~~(2) a class C misdemeanor for all other animals.~~

(Ord. 2020-33, 08-27-2020) (Ord. 2003-28, 12-17-2003)

CHAPTER 5. NUISANCE ANIMALS

6-5-1. Repealed.

6-5-2. Repealed.

6-5-3. Nuisance animals.

6-5-4. Repealed.

6-5-5. Repeated offenses.

6-5-6. Penalties.

6-5-1. Repealed.

(Ord. 1996-03, 02-07-1996)

6-5-2. Repealed.

Ord. 1996-03, 02-07-1996)

6-5-3. Nuisance animals.

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 Chapter 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) causes unreasonable fouling of the air by odors;

(c) causes unsanitary conditions in its enclosures or surroundings;

(d) creates a breeding place for flies or other insects;

(e) defecates on any public sidewalk, park strip, park, or building, or on any private property without the consent of the owner of such private property, unless the person owning, harboring, or having care, charge, custody, or control of such animal shall bag and remove immediately such defecation to a proper trash receptacle;

(f) barks, whines, howls, or makes other noises in an excessive, continuous, disturbing, or untimely fashion;

(g) unreasonably disturbs passersby or chases passing vehicles;

(h) is in violation of Chapter 5-6b (Aggressive Animals);

(i) engages in actions during any 12-month period resulting in 3 or more criminal convictions.

(2) Any animals which, by virtue of the number maintained, are determined by an officer or the Tooele County Health Department to be offensive or dangerous to the public health, welfare, and safety.

(Ord. 2020-33, 08-27-2020) (Ord. 2017-07, 03-15-2017) (Ord. 2003-28, 12-17-2003) (Ord. 1996-03, 02-07-1996)

6-5-4. Repealed.

(Ord. 2003-28, 12-17-2003)

6-5-5. Repeated offenses.

(1) An ~~dog or cat animal~~ owner shall forfeit to

the City all ~~dogs and cats animals~~ that, individually or collectively, gave rise to violations of Title 6 for which convictions entered on 3 or more separate occasions during a 12-month period against persons owning, harboring, or having charge, care, custody, or control of those ~~dogs or cats animals~~. Upon the third conviction, the City Attorney's Office may petition a court of competent jurisdiction to compel forfeiture. After the court enters the appropriate order, the Division shall impound all ~~dogs and cats animals~~ that gave rise to the convictions. Any ~~dog or cat animal~~ impounded pursuant to this Section shall be dealt with in accordance with the provisions of this Title for impounded animals, except that the owner or the owner's agent shall not be allowed to redeem the impounded animal or animals under any circumstances.

(2) An owner of a nuisance-causing animal other than a dog or a cat shall eliminate the nuisance. Upon the third nuisance conviction and/or abatement, the City Attorney's Office may petition a court of competent jurisdiction to compel permanent removal of the animal from the Tooele City corporate limits.

(Ord. 2017-07, 03-15-2017) (Ord. 2008-11, 11-05-2008) (Ord. 2003-28, 12-17-2003) (Ord. 1996-03, 02-07-1996) (Ord. 1981-14, 05-25-1981)

6-5-6. Penalties.

(1) Every person who violates any provision of Section 6-5-3 is guilty of a class C misdemeanor.

(2) Each and every day that a violation of Section 6-5-3 continues shall constitute a separate offense.

(Ord. 2017-07, 03-15-2017) (Ord. 2003, 12-17-2003) (Ord. 1996-03, 02-07-1996)

CHAPTER 5a. Repealed. (Ord. 2003-28, 12-17-2003)

CHAPTER 5b. AGGRESSIVE ANIMALS.

6-5b-1. Attacking animals.

6-5b-2. Animal bite of a human being.

6-5b-3. Animal bite of another domestic animal.

6-5b-4. Affirmative defenses.

6-5b-5. Impoundment – biting ~~dogs and cats~~ animals.

6-5b-6. Potentially dangerous and dangerous ~~dogs and cats~~ animals - application for hearing.

6-5b-7. Hearing procedures with the Division.

6-5b-8. Appeal.

6-5b-9. Penalties.

6-5b-10. Law enforcement animals.

6-5b-1. Attacking animals.

Subject to the affirmative defenses of Section 6-5b-4, any person owning or having charge, care, custody, or control of any animal is guilty of a class C misdemeanor if the animal approaches any human being or domesticated animal upon public or private property in an apparent attitude of attack. This is a strict liability offense. (Ord. 2017-07, 03-15-2017) (Ord. 2003-28, 12-17-2003)

6-5b-2. Animal bite of a human being.

Subject to the affirmative defenses of Section 6-5b-4, any person owning or having charge, care, custody, or control of an animal that bites any human being upon public or private property is guilty of a class B misdemeanor. This is a strict liability offense. (Ord. 2017-07, 03-15-2017) (Ord. 2003-28, 12-17-2003)

6-5b-3. Animal bite of another domestic animal.

Subject to the affirmative defenses of Section 6-5b-4, any person owning or having charge, care, custody, or control of an animal that bites another domestic animal upon public or private property is guilty of a class C misdemeanor. This is a strict liability offense. (Ord. 2017-07, 03-15-2017) (Ord. 2003-28, 12-17-2003)

6-5b-4. Affirmative defenses.

The following are affirmative defenses to prosecution under Sections 6-5b-1, 6-5b-2, and 6-5b-3:

(1) The victim was tormenting, abusing, or assaulting the animal or has, in the recent past, tormented, abused, or assaulted the animal.

(2) The victim was committing or attempting to commit a crime.

(3) The victim was trespassing on private property owned, leased, or rented by the person keeping the animal.

(4) The animal was on a substantial leash or lead, or within fenced private property owned, leased, or rented by the person keeping the animal, and the animal was responding to attack or intrusion on the property by another animal.

(Ord. 2017-07, 03-15-2017) (Ord. 2003-28, 12-17-2003)

6-5b-5. Impoundment – biting ~~dogs and cats~~ animals.

(1) The Division shall immediately impound, or otherwise ~~deliver for~~ quarantine, any ~~dog or cat animal~~ where the Division has reason to believe the animal has bitten a human being or domesticated animal without provocation.

(2) After 10 days and subject to the terms of Section 6-6-7, the ~~shelter Division~~ shall return the impounded animal to the animal's owner or custodian upon payment of the applicable fees unless a complaint pursuant to Section 6-5b-6 has been filed. If a complaint has been filed, the ~~shelter Division~~ shall retain the animal until proceedings are complete and a final determination has been made whether the animal is dangerous or potentially dangerous. If the animal is ultimately declared dangerous or potentially dangerous, the animal's owner or custodian shall be responsible for all expenses of the impoundment.

(3) In lieu of impound, the Division may allow the animal to be confined at the owner's or custodian's expense in a ~~City Division~~ approved kennel or veterinary facility within the city. The owner or custodian shall not remove the animal from the kennel or veterinary facility without the prior written approval of ~~the shelter Division~~ supervisor or authorized representative.

(4) Any person who owns or possesses the animal to be impounded and who refuses to surrender the animal upon demand of the Division is guilty of a class B misdemeanor. (Ord. 2017-07, 03-15-2017) (Ord. 2008-11, 11-05-2008) (Ord. 2003-28, 12-17-2003)

6-5b-6. Potentially dangerous and dangerous ~~dogs and cats~~ animals - application for hearing.

(1) Upon written application of the Division or any other person alleging that ~~an dog or cat animal~~ is or is not dangerous or potentially dangerous, the Department hearing examiner shall conduct a hearing to determine whether an animal is a potentially dangerous or dangerous animal. The application must be filed with the Department within 30 days of impoundment of the animal by the Division or other Division determination that the animal is dangerous or potentially dangerous. The application shall state the legal and factual grounds supporting the application. The hearing examiner will not conduct a hearing on an application that does not state the legal and factual grounds supporting the application. The hearing shall be conducted in accordance with the procedures provided by Section 6-5b-7.

(2) ~~An dog or cat animal~~ shall be declared potentially dangerous if, unprovoked, it:

(a) bit a human being or domesticated animal whether on public or private property;

(b) chased or approached a person upon public or private property in an apparent attitude of attack; or,

(c) has a known propensity to attack unprovoked, or to cause injury or otherwise to threaten the safety of humans or domesticated animals.

(3) A ~~dog or cat animal~~ shall be declared dangerous when the animal has:

(a) killed a human being or inflicted injury on a human being that created or caused protracted physical pain, permanent disfigurement, or temporary or permanent impairment of any bodily member or organ;

(b) without provocation, killed a pet or domesticated animal;

(c) bitten or endangered the safety of humans or domesticated animals after previously having been found to be potentially dangerous; or,

(d) done any of the acts listed in subparagraph (2) that would classify the animal as potentially dangerous, but after a hearing held pursuant to Section 6-5b-7, the hearing examiner reasonably believes that the animal poses an unreasonable risk of inflicting death or substantial bodily injury on a human being or domesticated animal.

(4) In making a determination whether a ~~dog or cat animal~~ is potentially dangerous or dangerous, the hearing examiner shall consider each of the following factors:

(a) any previous history of the animal attacking or biting a human being or domesticated animal;

(b) the nature and extent of injuries inflicted and the number and ages of victims involved;

(c) the location where the attack took place;

(d) the presence or absence of any provocation or other circumstance that would justify or explain the bite or attack;

(e) the extent to which property has been damaged or destroyed;

(f) whether the animal exhibits any characteristics of being trained for fighting or attacking, and any evidence to show such training;

(g) whether the animal exhibits characteristics of aggressive or unpredictable temperament or behavior in the presence of human beings or domesticated animals;

(h) whether the animal can be effectively trained or retrained to change its temperament or behavior;

(i) the manner in which the animal has been kept by its owner or custodian;

(j) the owner's or custodian's past and future ability and willingness to train and control the animal;

(k) any other relevant information or evidence regarding the ability of the owner or custodian, or the Division, to protect the public safety in the future if the animal is permitted to remain in the city.

(5) If the hearing examiner determines that the ~~dog or cat animal~~ is potentially dangerous, and if the owner or custodian is able and willing to properly train, handle, and maintain the animal, the hearing examiner may impose reasonable terms, conditions, and restrictions upon the owner's or custodian's continued possession of the animal and the training, handling, and maintenance of the animal to protect the public health, safety, and welfare.

(6) If the hearing examiner determines that the ~~dog or~~

~~cat animal~~ is dangerous, the Division shall order the shelter supervisor to humanely destroy the animal.

(7) Unless otherwise precluded by order of a court of competent jurisdiction, the shelter supervisor shall authorize the destruction of the ~~dog or cat animal~~ 5 business days after a final determination either by the Chief of Police (or designee), or by the Administrative Hearing Officer under Chapter 1-28, that the animal is dangerous.

(8) Any ~~dog or cat animal~~ that is determined to be potentially dangerous by the hearing examiner shall be permanently identified as such by the Division by the use of photographs or permanent marking, or both, prior to the animal's release from impound or confinement.

(9) Any ~~dog or cat animal~~ that is determined to be potentially dangerous, or that is determined to not be dangerous or potentially dangerous, shall be presumed abandoned if the animal is not redeemed from impound within 5 business days of notice of the determination, and may thereafter be humanely destroyed, adopted, or otherwise disposed of.

(Ord. 2017-07, 03-15-2017) (Ord. 2008-11, 11-05-2008) (Ord. 2003-28, 12-17-2003)

6-5b-7. Hearing procedures with the Division.

(1) The Chief of Police shall appoint a hearing examiner who shall exercise all powers relating to the conduct of the hearing on the application.

(2) After receiving an application alleging that a ~~dog or cat animal~~ is dangerous or potentially dangerous, the Department shall give notice of the hearing to the applicant and to the owner or custodian of the animal. The notice shall include the following:

(a) the purpose and reason for holding the hearing;

(b) the requested remedy or penalty; and,

(c) the time and place where the hearing is to be held.

(3) At the hearing, the owner of the animal, the complainant or complainants, if any, and the Division shall be given an opportunity to present evidence and to call and cross-examine witnesses.

(4) The hearing examiner may continue the hearing from time to time upon good cause being shown.

(5) Hearings need not be conducted according to technical rules relating to evidence or witnesses. Any relevant evidence shall be admissible if it is the sort of evidence on which responsible persons are accustomed to rely in conduct of serious affairs, regardless of the existence of any common law or statutory rule to the contrary. Hearsay evidence may be admitted for the purpose of supplementing or explaining any direct evidence, but generally will not be sufficient in itself to support a finding. Oral evidence shall be taken only on oath or affirmation. Other evidence may be admitted upon proffer.

(6) A recording or transcript of the hearing may be taken at the expense of the party desiring the record.

(7) The burden is on the Division or complainant to show by a preponderance of the evidence that the animal should be declared dangerous or potentially dangerous.

(8) Unless otherwise granted additional time by the Chief of Police, the hearing examiner shall, within 10 days of the conclusion of any hearing, submit a written report to the Chief of Police containing a summary of the evidence and stating the hearing examiner's findings and recommendations. The report shall be a public record and shall be served upon the owner of the animal by certified mail. A failure by the hearing examiner to submit a timely report shall not constitute grounds to challenge, overrule, or otherwise annul the hearing examiner's recommendations or the Police Chief's subsequent decision.

(9) If the hearing examiner determines that the animal is potentially dangerous, the hearing examiner shall make recommendations in accordance with Sections 6-5b-6(5). Terms, conditions, or restrictions may include the following:

(a) selection of locations within the owner's property or premises where the animal must be kept;

(b) requirements as to size, construction, materials, and design of an enclosure where the animal must be kept;

(c) specialized training from a trainer or training program approved by the Division to correct any of the animal's behavioral problems;

(d) prohibiting the addition of any new animal at the premises;

(e) types and methods of restraint, or muzzling, or both;

(f) photo identification or permanent marking, or both, for purposes of identification;

(g) payment of an additional annual \$50 license fee;

(h) procurement and maintenance of a \$25,000 liability policy insuring against personal injuries that may be caused by the animal; and,

(i) revocation of the animal license or permit.

(10) The Chief of Police shall review the hearing examiner's findings and recommendations. The Chief of Police may adopt or reject the findings of the hearing examiner, or may adopt or modify the recommendations of the hearing examiner, or may return the matter to the hearing examiner requesting additional evidence, findings, and recommendations. The Police Chief's decision shall be finalized in writing and shall be served upon the owner of the animal in person or by certified mail. The Police Chief's decision shall be considered issued for purposes of appeal and enforcement on the date of mailing to the animal owner.

(Ord. 2017-07, 03-15-2017) (Ord. 2008-11, 11-05-2008) (Ord. 2003-28, 12-17-2003)

6-5b-8. Appeal.

Appeal of the decision of the Chief of Police shall be to the Administrative Hearing Officer. The appeal must be filed with the City Recorder within 10 days of the date of mailing of the Police Chief's decision to the animal owner, pursuant to the provisions of Chapter 1-28.

(Ord. 2017-07, 03-15-2017) (Ord. 2013-07, 04-17-2013) (Ord. 2012-20, 09-19-12); (Ord. 2003-28, 12-17-2003)

6-5b-9. Penalties.

(1) It shall be a class B misdemeanor for any person to own, possess, harbor, or keep any ~~dog or cat~~ animal:

(a~~+~~) after a final decision declaring the animal dangerous; or,

(b~~2~~) within the city limits in violation of any term, condition, or limitation imposed upon the owner's continued possession or control of the animal pursuant to a final decision rendered under the provisions of this Chapter.

(2) Each and every day that a violation of this Chapter continues shall constitute a separate offense.

(Ord. 2017-07, 03-15-2017) (Ord. 2008-11, 11-05-2008) (Ord. 2003-28, 12-17-2003)

6-5b-10. Law enforcement animals.

The provisions of this Title do not apply to dogs used by law enforcement officers while in the course of performing police work.

(Ord. 2003-28, 12-17-2003)

CHAPTER 7. IMPOUNDING

6-7-1. Animals to be impounded.

6-7-2. Case report.

6-7-3. Disposition of impounded animals.

6-7-4. Fees.

6-7-1. Animals to be impounded.

(1) Officers shall place ~~dogs and cats animals~~ taken into custody into an animal shelter.

(2) The following ~~dogs and cats animals~~ may be taken into custody and impounded without the filing of a complaint:

(a) any animal being kept contrary to Tooele City Code Title 6;

(b) any animal creating a nuisance;

(c) any animal required to be licensed which is not licensed. An animal not wearing a tag shall be presumed to be unlicensed;

(d) any sick or injured animal whose owner cannot be located after reasonable effort;

(e) any lost, strayed, or abandoned animal;

(f) any animal required to be vaccinated for rabies which is not so vaccinated;

(g) any animal to be held for quarantine;

(h) any animal at large;

(i) any animal that has attacked a person or domestic animal; and,

(j) any animal that has bitten a person or domestic animal.

(3) The following ~~dogs and cats animals~~ shall be immediately taken into custody and impounded:

(a) any animal that has bitten a person or a domestic animal without provocation;

(b) any animal that has been determined to be dangerous pursuant to Section 6-5b-6; and,

(c) any animal previously designated as a potentially dangerous animal that is not being kept under the conditions imposed pursuant to Sections 6-5b-6 or 6-5b-7.

(Ord. 2017-07, 03-15-2017) (Ord. 2003-28, 12-17-2003) (Ord. 1994-02, 01-11-1994)

6-7-2. Case report.

Officers shall complete case reports on all impounded animals, which reports shall include, as applicable:

(1) a detailed description of the animal, including tag number, if present;

(2) the reason for and the date of impound;

(3) the location of the pickup;

(4) the name of the officer picking up the animal;

(5) the name and address of any person relinquishing an animal to the officer or to the animal shelter;

(6) the name and address of the redeemer or purchaser;

(7) all expenses accruing during impoundment;

(8) all fees received; and,

(9) the manner and date of disposal.

(Ord. 2017-07, 03-15-2017) (Ord. 2003-28, 12-17-2003) (Ord. 1994-02, 01-11-1994)

6-7-3. Disposition of impounded ~~dogs and cats~~ animals.

(1) Except as otherwise provided in Title 6 (i.e., for dangerous or quarantined animals), any impounded ~~dog or cat animal~~ may be redeemed ~~from the Shelter~~ by its owner during the impound period upon payment of the applicable fees.

(2) During impound, reasonable efforts shall be made to identify the animal's owner and give such owner notification of the impoundment. Notice shall be deemed given when contact is made by telephone or in person, or when a written message is left at the last known address of the registered owner.

(3) The owner of an impounded animal must redeem the animal within 5 business days after notification. Failure to so redeem the animal shall indicate that the animal is abandoned and subject the animal to immediate ~~adoption, rescue, humane~~ destruction, or other disposition.

(4) Each impounded, unredeemed animal shall be kept a minimum of 5 business days after impound, except as otherwise provided in this Title 6.

(5) Following impound, animals which are not redeemed, except for those animals quarantined under the provisions of Section 6-6-7, held under the provisions of Section 6-5b-5, or confined by court order, may be ~~adopted out, delivered to a rescue organization, humanely~~ destroyed, or otherwise disposed of. The Division shall not sell or adopt out any animal that has not been spayed or neutered.

(6) Quarantined animals not redeemed by their owner within 5 business days after the quarantine is ended shall be subject to immediate ~~adoption, rescue, humane~~ destruction, or other disposition.

(7) Any animal voluntarily relinquished ~~or surrendered~~ by its owner to the Division or the ~~s~~Shelter ~~for destruction or other disposition~~ may be ~~immediately adopted out, delivered to a rescue organization, humanely~~ destroyed, or otherwise disposed of ~~immediately upon receipt~~.

(8) At the discretion of a ~~Division or Shelter~~ supervisor, any impounded animal having or suspected of having a serious physical injury or a contagious disease requiring medical attention may be released to the care of a veterinarian, with the consent of the owner. The owner shall be responsible for all costs and fees.

(9) When, in the judgment of a ~~Division or Shelter~~ supervisor or officer, an impounded animal must be destroyed for humane reasons or to protect the public from imminent danger to persons or property, the animal may be destroyed without regard to any time limitations otherwise established herein and without court order.

(Ord. 2017-07, 03-15-2017) (Ord. 2008-11, 11-05-2008) (Ord. 2003-28, 12-17-2003) (Ord. 1994-02, 01-11-1994)

6-7-4. Fees.

(1) Fees relating to impounded animals shall be contained in the Tooele City Fee Schedule established by resolution of the Tooele City Council.

(2) Except as otherwise provided in Title 6, the owner of an impounded animal, or the owner's agent, may redeem the animal before disposition, provided all applicable impounding, boarding, veterinary, licensing, rabies vaccination, and other fees and costs are first paid.

(3) No impound fee shall be charged for to:

(a) the impoundment reporting owner of a suspected rabid animal if the reporting person owner complies with Chapter 6-6; or,

(b) the impoundment owner of an animal:

(i) not found to be either potentially dangerous or dangerous after a hearing under Chapter 6-5b; and,-

(ii) regarding which criminal charges are declined.

(4) Except as otherwise stated in this Section, the owner of an impounded animal is liable for all impound, disposition, and other costs, which if not voluntarily paid may be collected through a civil action or by being added to the owner's tax or utility bill.

(5) Persons may obtain any animal not timely redeemed by its owner for a fee per animal established in the Tooele City Fee Schedule by resolution of the City Council, plus the costs of license, spay, neuter, and rabies vaccination, as applicable.

(Ord. 2017-07, 03-15-2017) (Ord. 2008-11, 11-05-2008)
(Ord. 2003-28, 12-17-2003) (Ord. 1994-02, 01-11-1994)

CHAPTER 8. ANIMAL SHELTER

6-8-1. Animal ~~s~~Shelter provided.

6-8-2. Disposal facilities.

6-8-3. Medical treatment.

6-8-1. Animal shelter provided.

(1) Tooele City ~~shall~~has determined it to be in the City's best interest to provide premises and facilities to be used as an ~~a~~Animal ~~s~~Shelter where impounded ~~dogs and cats~~ ~~small animals~~ can be adequately kept ~~short-term, pending disposition~~. The City shall purchase and supply food and furnish humane care for impounded ~~dogs and cats~~~~animals~~, subject to owner reimbursement. ~~The Shelter is not intended or required to accept, impound, keep, feed, or otherwise care for livestock, wild or exotic animals, or other animals.~~

(2) Shelter personnel shall ~~do the following~~:

(a) ~~see that all animals and animal holding facilities at the Shelter are licensed, controlled, and permitted in accordance with any applicable laws and regulations; and,~~

(b) ~~establish, in cooperation with the Tooele City-County Health Department and other interested governmental agencies, as applicable, adequate measures for rabies immunization and control.~~

(Ord. 2017-07, 03-15-2017) (Ord. 2003-28, 12-17-2003)
(Ord. 1981-14, 05-25-1981)

6-8-2. Disposal facilities.

Tooele City shall provide for the humane destruction of dogs and ~~cats~~ ~~other animals required~~ ~~allowed~~ to be ~~euthanized~~ ~~destroyed by~~ pursuant to this Title or ~~by~~ the laws of the State of Utah.

(Ord. 2017-07, 03-15-2017) (Ord. 2003-28, 12-17-2003)
(Ord. 1981-14, 05-25-1981)

6-8-3. Medical treatment.

Tooele City may furnish medical treatment, when necessary, ~~in the City's discretion~~, to ~~dogs and cats~~ ~~animals~~ impounded under the provisions of this Title. The costs for such treatment shall be assessed to the owner upon redemption, or to the new owner upon ~~purchase or~~ adoption ~~or transfer to a rescue organization~~.

(Ord. 2017-07, 03-15-2017) (Ord. 2003-28, 12-17-2003)
(Ord. 1981-14, 05-25-1981)