

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF AMERICAN FALLS, POWER COUNTY, IDAHO, AMENDING ORDINANCE NUMBER 261 AND ORDINANCE NUMBER 503 TO PROVIDE FOR THE REGULATION AND LICENSING OF VICIOUS DOGS; ESTABLISHING PROCEDURES AND PENALTIES; AND PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTING DATE

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF AMERICAN FALLS, Power County, Idaho, as follows:

6-2A-1: Definition of Terms:

OWNER: A person, firm, or corporation keeping, possessing, harboring or having the care of custody of a dog.

VICIOUS DOG:

A. Any dog with a known propensity, tendency or disposition to attack without provocation, or cause injury, or to otherwise threaten the safety of human beings or domestic animals; or

B. Any dog which, without provocation, has attacked or bitten a human being or domestic animal; or

C. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or

D. Any dog which, without provocation, chases or approaches a person upon the streets, sidewalks, or public or private property in a menacing fashion or apparent attitude of attack.

6-2A-2: Declaring a Dog Vicious:

If the animal control officer or police officer has cause to believe that a dog is vicious, the animal control officer may find and declare that dog a vicious dog.

6-2A-3: Notice of Declaration:

Within three (3) days of declaring a dog vicious, the animal control officer or police officer shall notify the dog's owner in writing of the declaration. The notice shall identify the requirements and conditions for maintaining a vicious dog as set forth in this article. If the owner cannot be located, the dog may be immediately impounded and notice shall be posted on the owner's property or sent by certified mail to the owner's last known address.

6-2A-4: Hearing on Declaration:

A. The owner of a dog declared vicious shall have the right to file with the city clerk, within seven (7) days after receiving notice, a written request for a hearing to contest the vicious dog declaration. The hearing shall be held within ten (10) days after the city clerk receives the owner's written request.

B. The hearing shall be informal and strict rules of evidence shall not apply. The owner may be represented by counsel, present oral and written evidence, and cross examine witnesses.

C. The city council shall issue a decision within seven (7) days after the close of the hearing and shall notify the owner in writing of the decision.

D. If the city council upholds the vicious dog declaration, the owner shall comply with all of the requirements and conditions for maintaining a vicious dog as set forth in this chapter.

E. The decision of the city council is final.

6-2A-5: Requirements for Keeping a Vicious Dog:

The owner of a vicious dog shall be subject to the following requirements:

A. **Confinement:** All vicious dogs shall be securely confined indoors or in an enclosed and locked pen or structure upon the premises of the owner. The pen or structure must have minimum dimensions of five feet by ten feet (5' x 10') and must have secure sides and a secure top attached to the sides. If no bottom is secured to the sides, the sides must be embedded into the ground no less than two feet (2'). All pens or structures must be adequately lighted and kept clean and sanitary. The enclosure must also protect the dog from the elements.

B. **Leash and Muzzle:** The owner of a vicious dog shall not allow the dog to go outside its kennel, pen, or structure unless the dog is muzzled, restrained by a chain or leash not more than four feet (4') in length, and under the physical control of a person. The muzzle must not cause injury to the dog or interfere with its vision or respiration, but must prevent the dog from biting any human or animal.

C. **Signs:** The owner of a vicious dog shall display in a prominent place on the owner's premises a clearly visible warning sign indicating that there is a vicious dog on the premises. The sign must be readable from the public highway or thoroughfare. The owner shall also display a sign with a symbol warning children of the presence of a vicious dog. Similar signs shall be posted on the dog's kennel, pen, or enclosed structure.

D. **Insurance:** The owner of a vicious dog must provide proof to the city clerk that the owner has procured public liability insurance of at least one hundred thousand dollars (\$100,000.00) insuring the owner for any damage or personal injury which may be caused by his or her vicious dog.

6-2A-6: Impoundment and Destruction:

The animal control officer or police officer may order the impoundment and destruction of a dog where:

- A. The dog has attacked, bitten, or injured a human being or domestic animal;
- B. The dog is a “vicious dog” as defined in section 6-2A-1 of this article and the owner has failed to comply with the requirements and conditions of keeping a vicious dog as defined in section 6-2A-5 of this article; or
- C. The dog poses a threat of serious harm to the public health or safety.

6-2A-7: Notice of Impoundment:

Within three (3) days of an impoundment, the animal control officer or police officer shall notify the dog’s owner in writing of the impoundment.

6-2A-8: Hearing on Impoundment/Destruction:

- A. The owner of an impounded dog shall have the right to file with the city clerk, within three (3) days after receiving notice, a written request for a hearing to contest the impoundment.
- B. The hearing shall be informal and strict rules of evidence shall not apply. The owner may be represented by counsel, present oral and written evidence, and cross examine witnesses.
- C. The city council shall issue a decision within three (3) days after the close of the hearing and shall notify the owner in writing of the decision.
- D. After considering all of the relevant evidence, the city council may order the destruction of the impounded dog, or may release the dog to its owner condition on the owner complying with the requirements for keeping a vicious dog as set forth in section 6-2A-5 of this article, or complying with any other requirements necessary to protect the public health or safety.
- E. If the owner of an impounded dog fails to appear at a hearing or fails to request a hearing, the dog shall be destroyed.

6-2A-9: Exemptions:

- A. This chapter shall not apply to dogs used by a police department or law enforcement agency.
- B. No dog may be declared vicious for injury or damage sustained by a person who was committing wilful trespass or other tort upon the premises of the dog’s owner.

C. No dog may be declared vicious for injury or damage sustained by a person who was teasing, tormenting, abusing, or assaulting the dog.

6-2A-10: Change of Status:

The owner of a vicious dog shall notify the animal control officer or police officer within twenty four (24) hours if the vicious dog is unconfined and on the loose, or has attacked a human being or domestic animal.

6-2A-11: Change of Ownership:

If the owner of a vicious dog sells, gives away, or otherwise transfers custody of the vicious dog, the owner shall, within seven (7) days, provide the animal control officer or police officer with the name, address, and telephone number of the new owner. The previous owner shall notify the new owner of the dog's designation as a vicious dog and of the requirements and conditions for keeping a vicious dog.

6-2A-12: Dog Fighting:

No person shall possess, harbor, or maintain care or custody of any dog for purpose of dog fighting, nor shall any person train, torment, badger, bait, or use any dog for the reason of causing or encouraging the dog to attack human beings or domestic animals.

6-2A-13: Penalties:

Whoever violates any provision of this article shall be guilty of a misdemeanor.

This Ordinance shall be effective following its passage and publication in the Power County Press within thirty (30) days following the date of its passage.

Savings Clause. To the extent that Ordinance No. 261 and Ordinance No. 503 are repealed or amended by this ordinance, Ordinance No. 261 and Ordinance No. 503 shall remain in full force to authorize the arrest, prosecution, conviction and punishment of a person who violates Ordinance No. 261 and/or Ordinance No. 503 prior to the effective date of this ordinance.

Severability. The sections of this Ordinance are severable. The invalidity of a section shall not affect the validity of the remaining sections.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this ____ day of _____, 2009.

Amy Wynn
MAYOR

Robyn Herndon
CITY CLERK