



AMERICAN CIVIL LIBERTIES UNION OF UTAH FOUNDATION, INC
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June 8, 2006

Mayor Kim Lawson
76 North Main Street
Kanab, Utah
84741

Re: Kanab City Animal Control Ordinance

Dear Mayor Lawson,

We are writing to apprise you of several complaints we have received regarding ordinance 3-1-06O, amending Kanab City Animal Control Ordinance.

After an initial review of the ordinance, we are concerned about the lack of Fourth Amendment protections in its plain language. In particular, subsection 13-200.01.141(C), requires that authorities “**shall** be permitted to inspect . . . at **any** time. If permission for an inspection is refused, the permit or license . . . **shall** be revoked.” (Emphasis added.) This provision may improperly infringe on the Fourth Amendment rights of animal owners by subjecting their private homes to search and inspection, without requiring that the inspection be pursuant to the knowing and voluntary consent of occupants or owners, or pursuant to a warrant lawfully issued upon probable cause.

Although a later subsection of the ordinance, 13-200.02.141, states that inspections are permitted at any “reasonable time,” this addition does little to alleviate concerns about the aforementioned subsection. In the minutes from the March 14, 2006 City Council meeting, Police Chief Cram stated that “neither he or the Animal Control Officer would enter someone’s house without a warrant.” We appreciate Chief Cram’s assurances that the law will not be enforced as written. However, his statements do not have the binding effect of law and cannot stand in the place of a law written according to constitutional requirements.

In light of these concerns, the ordinance should be revised. We will monitor implementation of the ordinance to assure that constitutional violations do not occur. Please feel free to contact me at 801.521.9862, ext. 103, if you have any questions.

Yours,
/s

Margaret Plane
Legal Director