

## **AMENDMENT TO ORDINANCE 20120123**

A COMPREHENSIVE AMENDMENT TO THE ANIMAL ORDINANCE DATED JANUARY 23, 2012 TO FURTHER ADDRESS SPECIFIC SITUATIONS, INCLUDING PENALTIES FOR VIOLATIONS OF SAID ORDINANCE.

### **SEC. 1. ADDITIONAL DEFINITIONS:**

Dog: any member of the canine family three (3) months or more of age.

Kennel: any establishment or structure used for harboring, raising, training, or boarding more than two (2) dogs or cats that are more than six (6) months old.

Neighbor: any owner of land within three hundred (300) feet.

### **SEC. 2. DUTIES OF ENFORCERS OF ORDINANCE:**

- a. It shall be the duty of the animal control officer, and members of the Police Department to enforce the provisions of this ordinance; to catch and impound any animal running at large within the city and within the police jurisdiction of the city, to attempt to rid the city of stray, homeless, unclaimed and/or diseased animals; to cooperate with the humane officer and county rabies inspector and to perform such other duties as may be required by the City Council.
- b. The animal control officer and members of the Police Department shall have the right, for the protection of the public health, welfare and safety, to enter upon any property within the city limits for the purpose of capturing and impounding any animals found to be running at large. Additionally, upon verified written complaint, investigate instances of animals belonging to an owner within the city limits running at large, or likewise not properly contained on the owners property. Upon written complaint that an animal has bitten a human being, the animal control officer and members of the Police Department shall have the right to enter upon any property with the city for the purpose of capturing and confining the animal, under the direct care, custody, control and supervision of a licensed veterinarian for a period of 10 days, in accordance with the provision of section 3-7-0, Code of Alabama 1975, as amended.
- c. It shall be unlawful and punishable as a misdemeanor for any person who is the owner or custodian of an animal which has bitten a human to fail to promptly turn over or deliver the animal to the animal control officer or member of the Police Department upon demand.
- d. Any expense incurred in the handling of any animal, under the provision of this section, shall be borne by the owner or custodian of said animal.

### **SEC. 3. INTERFERENCE WITH ENFORCEMENT**

It shall be unlawful for any person to hinder, molest, or interfere with any person authorized or empowered to perform any duties within this Ordinance.

### **SEC. 4. NOISY ANIMALS:**

- a. It shall be unlawful and a nuisance for any person to keep on a residential lot or premises within the city limits any animal or group of animals, known to such a person habitually, continuously or intermittently to make or emit sounds or noises of such volume and nature

as to unreasonably interfere with or disturb the peace, quiet, comfort and repose of a person of ordinary sensibilities within the neighborhood in the reasonable use and enjoyment of adjacent properties.

- b. It shall be unlawful and a nuisance for any person to keep on any tract, lot or premises within the city limits any animal or group of animals, whether housed in a corral, kennel, building or other structure, under such circumstances that the sounds or noises emitted by such animals are of such volume and nature as to unreasonably interfere with or disturb the peace, quiet & comfort of persons of ordinary sensibilities in the reasonable use and enjoyment of any adjacent properties used for residential purposes.
- c. Any owner violating this section shall be guilty of maintaining a nuisance; fines shall be assessed as follows:
  - 1<sup>st</sup> offense – written warning
  - 2<sup>nd</sup> offense - \$150.00
  - 3<sup>rd</sup> offense - no prosecution shall be commenced and no arrest made except upon affidavit made before and warrant issued by a municipal judge or magistrate of the city. Upon such affidavit and warrant issued, owner will be summons to court.

#### SEC. 5. DUTIES OF OWNERS:

- a. It shall be the duty of the owner or person in charge of any animal which has been allowed or suffered by such person to run at large, to pick up and remove to the landfill, city yard or to secure in an authorized container any garbage or refuse which the animal has caused to be overturned, spilled or scattered upon any residential lot occupied for human habitation, or upon any adjacent right-of-way, upon demand from the owner or occupant, or upon demand of the Mayor or any animal control officer under the supervision of the Mayor.
- b. It shall be the duty of the owner or person in charge of any animal to remove and dispose of any feces deposited by the animal upon the grounds of any public park, or public place, upon any residential lot of another occupied for human habitation, or upon any adjacent right-of-way, and will be done on demand by owner or occupant or the Mayor or any animal control officer.
- c. It shall be unlawful for any person to violate the duties of ownership as explained above, however, no prosecution shall be commenced and no arrest made pursuant to this section except upon affidavit made before and warrant issued by a municipal judge or magistrate.

#### SEC .6. CRUELTY TO ANIMALS PROHIBITED:

As per State of Alabama – Malicious injury, Code of Ala. 1975, 3-1-10; Cruelty, Code of Ala. 1975 13A-11-14. Any violation of this provision shall constitute a misdemeanor and shall result in the removal of the animal when the animal control officer or police officer determines that such removal is necessary for the safety of the animal.

#### SEC. 7. PROHIBITIONS AND RESTRICTIONS ON KEEPING LIVESTOCK:

- a. It shall be unlawful for any person to keep within an R-1 (Single Family Residential District) of the city any animals of swine type (hogs/pigs), equine type (horses), bovine type (cow), ovine type (sheep).

- b. It shall be unlawful to keep any of the above mentioned types of animals in an R-2 (Two Family Residential District) or R-3 (Multi-Family Residential District) if there are within three hundred (300) feet of any residence, church, school, public building, park, playground, or public thoroughfare unless a petition is signed by all adjoining property owners and/or property owners within three hundred (300) feet of the boundary of this property.
- c. It shall be unlawful for any owner or person in charge to keep any animal or fowl in the city in any corral, pen, stable or coop if any part of which is within one hundred (100) feet of a dwelling occupied by a person other than the owner of said animal or fowl, or, if such dwelling is not occupied, owned by a person other than the owner or person in charge of the animal or fowl. This section shall not apply to enclosures in which animals or fowl have been continuously kept before the effective date of this section.
- d. Having complied with the requirements of subsections a. and b. of this section, such premises where animals or fowl are permitted shall at all times be kept in a sanitary condition acceptable to the county health officer, for the protection of the public health.

SEC. 8. FASTENING ANIMALS TO ANY STRUCTURES FORBIDDEN:

- a. No person shall hitch or fasten any animal to any shade tree or planter box, on any street or sidewalk or any other public place of the city.
- b. No person shall hitch or fasten any animal to any light posts of the city, or house, fence, post, or property belonging to another without the consent of the owner of such property.

SEC. 9. KENNELS:

No person shall own, maintain, or operate any dog kennel, nor shall any person hereafter establish any animal hospital within the corporate limits of the city without a written consent of all householders within three hundred (300) feet of such kennel or hospital.

SEC. 10. VIOLATIONS AND PENALTIES:

- a. Complaint procedure. Any citizen wishing to make a complaint of a violation of this ordinance must present himself/herself to the Police Chief or law enforcement officer to commence proceedings against said violator. First, the complaining individual must complete an incident offense report with law enforcement. Then, the complaining individual must present himself/herself to a magistrate and swear under oath that the violation occurred. If the magistrate has probable cause to believe that the offense as described constitutes a violation of this ordinance, a summons and complaint may be issued to the individual.
- b. Issuance of summons and complaint by law enforcement officer. Any law enforcement officer of the city or the state shall be authorized to issue a Non-Traffic Ticket Complaint or seek a summons and complaint issued by a magistrate, at the discretion of the officer, to any person charged with a violation of the offenses specified within this ordinance. Such summons and complaint procedure shall be in lieu of custodial arrest.
- c. Summons and Complaint procedure by law enforcement officer. In the event a summons and complaint is issued, and not a Non-Traffic Ticket Complaint, when a person is arrested for violation(s) of this ordinance, the officer shall take the name and address of said person and any other information required by law.

- d. Plea of guilty and imposition of fine before magistrate authorized. When a person is charged with a violation of this ordinance, and when that person desires to waive legal process on the question of his/her innocence and please guilty and voluntarily settle to the charge, he/she may do so by pleading guilty before the magistrate and paying a sum to the municipal court. A plea of guilty shall be accepted by the magistrate only after the defendant has executed the notice and waiver of rights provision on the summons and complaint. Settlement fines will be assessed pursuant to the following schedule, which may be amended from time to time by the City Council:
1. First incident: warning
  2. First violation: \$55.00
  3. Second violation: \$150.00
  4. Any subsequent violations require a mandatory court appearance. The court magistrate is not authorized to accept a plea of guilty for a 3<sup>rd</sup> or subsequent offense.
- e. Nothing contained herein shall be construed to limit the ability of the municipal judge to impose any sentence authorized by this Ordinance or by state law.
- f. Payment of fine. The above fines and costs may be voluntarily paid to the municipal magistrate before the court date shown on the summons and complaint. The magistrate shall be authorized to receive the amount in full settlement of the alleged offense and to give a receipt on behalf of the city. If such payment is made, no further prosecution for that offense shall be instituted or maintained in any court. All such payments must be made by personally appearing before said magistrate.
- g. Rights of the Defendant. All owners of animals subject to the provision of this ordinance shall have the right to enter a plea of not guilty to any violation charged against him/her and secure a trial in municipal court.
- h. Failure to appear or properly settle charges. If the Defendant fails to voluntarily settle his/her charges or fails to appear as specified in the summons and complaint, the municipal court judge may issue a warrant for his/her arrest commanding that he/she be brought before the court to answer the charge contained within the summons and complaint. In addition, any person who willfully violates his/her written promise or bond to appear shall be guilty of a separate offense of failing to appear, which is a misdemeanor, regardless of the disposition of the charge upon which he/she was originally arrested.
- i. Review of prior charges. The municipal court, upon conviction, shall have the duty and responsibility to consider all prior charges brought against the offender (whether settled or not) and will specifically consider all past charges.
- j. Additional power of the municipal court. The municipal judge shall have the following legal authority in connection with this ordinance and the enforcement thereof. Said authority shall include the following:
1. Upon a sworn complaint being made by a citizen, an authorized municipal officer, animal control officer or law enforcement officer of the city, the court shall be authorized to issue the following orders:
    - To direct seizure, impoundment, and/or delivery of said animal to the city's impoundment center;
    - To order that the animal be destroyed if there exists a reasonable necessity for said action;

- To assess all costs or expenses to the victim, including restitution, against said owner or responsible person;
  - To increase the amount of the fine above that specified in the schedule.
- k. Upon the trial and conviction of an owner for a violation of any provision of this ordinance, the municipal court shall have the authority to issue the following orders, in addition to all other power and authority conferred by law:
1. To impose on the defendant a requirement that the animal be destroyed or removed from the city limits;
  2. To impose as a specific condition on the defendant reasonable conditions and restrictions relating to the possession and/or control of the animal;
  3. Such other terms and conditions as the court may deem proper under the circumstances within the law.

Sec. 11. Enactment Provisions.

- a. In the event any part of this ordinance shall be declared unconstitutional or void by a court of competent jurisdiction, the remaining provisions shall not be altered or effected and will remain in full force and effect.
- b. These amendments shall be enacted following the passage, adoption and publication as provided by law.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Florala, Alabama, that this Amendment of the Code of Ordinances of the City of Florala be and is hereby amended this 8th

Day of April, 2024.