

ORDINANCE NO. 007-2017

AN ORDINANCE PROVIDING REGULATIONS RELATED TO ANIMALS WITHIN THE CITY OF CORDOVA, ALABAMA.

WHEREAS, the City of Cordova, Alabama (“the City”), in order to promote the health, safety, and welfare of the public and otherwise serve the public interest, desires to regulate animals within the City’s corporate limits;

WHEREAS, there has been a dramatic growth in the number of dogs running at large within the limits of the City;

WHEREAS, Section 3-5-14 of the *Code of Alabama* (1975) authorizes the Cordova City Council to “adopt all such ordinances and laws as shall be necessary to prevent the running at large within the limits of the municipality of all livestock or animals and to take up and impound all such livestock or animals found so running at large and to fix, prescribe and provide for the collection of penalties and impounding fees for all such livestock or animals so taken up and impounded;”

WHEREAS, Section 11-47-110 of the *Code of Alabama* (1975) authorizes the City “to regulate and prevent the running at large on the streets of all equine or equidae, cows, hogs, dogs, or other animals and to pass all laws necessary for the impounding and sale of the animals and destruction of dogs and to regulate and prohibit the driving of livestock in droves through the streets of a city or town;”

WHEREAS, in Opinion 1999-078, the Attorney General of Alabama held that a municipality may regulate vicious animals;

WHEREAS, there has been an alarming increase in the frequency and volume of noise from animals, such as dogs, within the City’s corporate limits;

WHEREAS, it is the intent of this Ordinance to strike an appropriate balance between the right of individuals to possess animals and derive pleasure by their companionship, and the right of the public to a peaceful and healthful environment;

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Cordova, Alabama, sitting in regular session on Tuesday, December 12, 2017, at 6:30 p.m. as follows:

ARTICLE I. DEFINITIONS

Section 1. Definitions.

The following terms shall be defined as follows for the purposes of this chapter:

- a. *Animal*: Any organism of the kingdom animalia other than a human being, including but not limited to mammals, fish, birds and reptiles.
- b. *Cat*: Any member of the domestic feline family.
- c. *City*: Within the corporate limits of the City of Cordova, Alabama.
- d. *City pound, impoundment center, rabies control center*: The place so designated by the City or by the county board of health, including, but not limited to, the Walker County Humane and Adoption Center and the City of Jasper Animal Shelter, or such other person with whom the City may contract for the maintenance or operation of a City pound, whether such City pound is located within the limits of the City or elsewhere in the county.
- e. *Dog*: Any member of the domestic canine family.
- f. *Exotic animal*: Exotic animals include, but are not limited to, raccoons, bobcats, coyotes, wolves, piranhas, barracudas, sharks, scorpions, tarantulas, tigers, hybrid wolves, Vietnamese potbellied pigs, or monkeys. Exotic animals shall also include any poisonous, venomous, constricting or inherently dangerous member of the reptile or amphibian family (including but not limited to rattlesnake, boa constrictor, cobras, pit vipers, crocodiles and alligators). Unless as otherwise defined above, this definition shall not include animals customarily used in Alabama as domestic farm animals, fish confined in an aquarium, birds or insects.
- g. *Fowl*: A domestic bird used in the market or household for food consumption, such as a chicken, duck, goose, guinea, peafowl, turkey, pheasant, pigeon, ostrich, or another avian species.
- h. *Owner*: A person having a right of property in the animal; or having charge, control, possession, or dominion over said animal; or keeping, harboring, or maintaining said animal. Owner shall be construed to include any person, partnership, corporation, or other legal entity.
- i. *Public nuisance*: Any animal or any condition resulting from an animal that unreasonably annoys human beings, endangers the lives or health of other animals or persons, or substantially interferes with the rights of citizens, other than its owners, to enjoyment of life or property.
- j. *Running at large*: An animal runs at large at any time or place when the animal is not confined or enclosed within a wall, fence, or other enclosure on the premises of the animal's owner or person in charge of the animal in such manner as to effectively prevent its escape. However, an animal is not running at large when (a) it is under the direct supervision of the owner or person in charge of the animal within the confinement of the curtilage or yard, where the legal residence is that of the owner or person in charge, or (b) it is off the premises of the owner or person in charge and attached to a leash in the hands of the animal's owner or other person in charge, or completely restrained by another control device under the supervision of the owner or person in charge; provided, however that such owner or person in charge be of sufficient age, training, and physical capabilities to maintain complete control of said animal.
- k. *Vicious animal*: Any animal:

- (1) With a known propensity, tendency, or disposition:
 - (a) To attack unprovoked,
 - (b) To chase moving vehicles,
 - (c) To approach or threaten persons in public areas with an apparent attitude of attack,
 - (d) To cause injury to, or to otherwise endanger the safety of humans or other domestic animals, or

(2) Found to attack a human being or other domestic animal without provocation, whether or not such animal has previously actually bitten or attacked a person or other domestic animal.

A vicious animal does not include: (1) an animal assisting a peace officer engaged in law enforcement duty, or (2) a dog that attacks or inflicts bites upon a trespasser of a fully enclosed building.

Although any type of animal may fit within the definition of a vicious animal, the following types of dogs are per se declared to fall within this definition: pit bulls, Rottweilers, and bull terriers. For purposes of this section, "pit bull" means any pit bull terrier of the Staffordshire Bull Terrier, American Staffordshire Terrier, or American Pit Bull Terrier breed of dog or any mixed breed of dog which contains as an element of its breeding the breed of Staffordshire Bull Terrier, American Staffordshire Terrier, or American Pit Bull Terrier as to be identified as partially of the breed of Staffordshire Bull Terrier, American Staffordshire Terrier, or American Pit Bull Terrier.

ARTICLE II. OFFENSES RELATED TO ANIMALS

Section 2. Public nuisances.

It shall be unlawful for any person to own, keep, possess or maintain an animal in such a manner as to constitute a public nuisance, as defined by this Ordinance and state law. By way of example, and not of limitation, the following acts or actions by an owner of an animal are hereby declared to be a public nuisance and are therefore unlawful:

- a. Allowing or permitting an animal to damage the property of anyone other than its owner, including but not limited to, getting into or turning over garbage containers, or damaging gardens, flowers and vegetables, or defecating upon property of another.
- b. Maintaining an animal in an unsanitary environment that results in offensive odors or is dangerous to the animal or to the public health, safety and welfare, or failing to maintain the animal in a condition of good order and cleanliness which increases the probability of disease transmission.
- c. Maintaining the owner's property in a manner that is offensive, annoying, or dangerous to the public health, safety, or welfare of the community because of the number, type, variety, density, or location of animals on the property.

- d. Allowing or permitting an animal to bark, whine, howl, crow, or cackle in an excessive and untimely fashion so as to interfere with the reasonable use and enjoyment of neighboring premises.
- e. Maintaining an animal that is diseased or dangerous to the public health.
- f. Maintaining an animal that habitually or repeatedly chases, snaps at, or attacks pedestrians, joggers, animals walked on a leash by owners, bicycles, or other vehicles, unless such animal is restrained by fence, cage, glass, mesh enclosure or other restraining device (including leash).

Section 3. Running at large.

No owner or any person having charge or control of an animal shall cause or permit such animal to run at large within the city.

Section 4. Abandonment.

No person shall abandon or set loose any animal within the city with the intention of avoiding the responsibility for the custody or care of that animal.

Section 5. Causing escape.

Except as otherwise permitted by this chapter, no owner or other person shall, without specific permission from the owner or person in charge or control of the animal: (1) Take an animal from the confinement or restraint of its owner or of the person in charge or control of it; or (2) Cause an animal to escape from the confinement or restraint of its owner or of the person in charge or control of it.

Section 6. Cruelty to animals.

Any person that engages in any of the following acts within the City shall be guilty of an offense against the City:

- a. Commission of an offense under Section 13A-11-14 of the *Code of Alabama* (1975) (cruelty to animals), or of any amendment thereto now existing or hereafter enacted.
- b. Commission of an offense under Section 13A-11-14.1 of the *Code of Alabama* (1975) (aggravated cruelty to animals), or of any amendment thereto now existing or hereafter enacted.
- c. Failing to provide adequate food or water for any animal, provided such person is the owner or person in charge of such animal.
- d. Overworking or overloading any animal in a manner which causes physical pain and suffering.
- e. Beating, torturing, injuring, tormenting, poisoning, depriving of necessary sustenance, or mutilating any animal in a manner which causes pain, suffering, or death.
- f. Failing to provide adequate medical attention for any sick, diseased, or injured animal, provided such person is the owner or person in charge of such animal.

- g. Keeping any animal under unsanitary and inhumane conditions or in unsanitary or inhumane conditions that are detrimental to the animal's health and general welfare.
- h. Molesting or harassing any animal.
- i. Promoting, permitting, holding, managing, conducting, allowing, or attending any fight or combat between one or more animals or fowls, or between animals and humans.
- j. Failing to provide adequate shelter for an animal, provided such person is the owner or person in charge of such animal.
- k. Placing or confining an animal or allowing an animal to be placed or confined in a motor vehicle under such conditions or for such a period of time as to endanger the health or welfare of the animal because of temperature, lack of food or water, or such other conditions as may reasonably be expected to cause suffering, disability, or death.

Section 7. Noisy animals.

It is hereby declared a nuisance and shall be unlawful for any owner to keep within the City any animal or group of animals that emit a sound in such a manner as to be plainly audible to any person other than the owner at a distance of fifty feet (50') from the animal or group of animals.

(Reference: *Moore v. City of Montgomery*, 720 So.2d 1030 (Ala. Crim. App. 1998).)

Section 8. Exotic animals.

- a. It shall be unlawful for any person to bring into, receive into, buy, own, possess, exhibit, control, harbor, sell or offer for sale, any exotic animal within the City.
- b. Any person who owns or possesses an exotic animal at the time of the adoption of this Ordinance shall have thirty (30) days from the date of the adoption of this Ordinance in which to remove the animal from the City.

Section 9. Vicious animals.

- a. Any vicious animal within the City must be registered with the City's police department by the owner of the vicious animal. Upon registering the vicious animal, the owner must provide information concerning the animal's type or breed, the animal's address, the owner's name, the owner's address, and the owner's telephone number. The owner will thereafter notify the City's police department within one week of any change in the required information.
- b. The keeping of a vicious animal shall be subject to the following standards:
 - (1) The vicious animal must be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in (b)(2), below. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine these animals must be locked with a key or combination lock when such

animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen. The sides of the pen must be embedded in the ground no less than two (2) feet. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

- (2) When outside of its kennel or pen, the vicious animal must be kept securely on a chain, rope or other type of leash no longer than four (4) feet in length, and with a person in actual physical control of the leash. Said person must be of such reasonable age and strength so as to be able to securely control the vicious animal. When outside its kennel or pen, the vicious animal's leash is not to be tied or affixed to inanimate objects such as trees, posts buildings, etc. In addition, when outside of the kennel or pen, a vicious animal must be muzzled by a muzzling device sufficient to prevent such animal from biting persons or other animals.
 - (3) Vicious animals are not to be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition.
 - (4) All owners, keepers, or harborers of vicious animals shall within ten (10) days of the effective date of this ordinance display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Vicious Animal," or "Beware of Dog." In addition, a similar sign is required to be posted on the kennel or pen of such vicious animal.
 - (5) It shall be unlawful for any person to have, keep, permit, possess, or maintain more than two (2) vicious animals (that are over six (6) weeks of age) at any premises.
- c. Any person in violation of this Section at the time of its adoption shall have thirty (30) days from the date of this Ordinance's adoption to come into compliance therewith.
 - d. It shall be unlawful for the owner, keeper or harborer of a vicious animal to fail to comply with the requirements and conditions set forth in this section.
 - e. It shall be unlawful for the owner, keeper or harborer of a vicious animal to have, keep, possess, maintain, or bring a vicious animal within five hundred (500) feet of the grounds of a public school, a public park, or the grounds of a public recreational center.

Section 10. Inoculation.

- a. No person shall own, possess, keep, or harbor in the City any animal that has not been inoculated against rabies and tagged as required by Chapter 7A of Title 3 of the *Code of Alabama* (1975) as the same may be amended over time. The required tag shall be displayed by attaching same to the animal's collar.
- b. No impounded animal shall be released from impoundment unless or until the same is inoculated or a proper certificate and tag is presented which shows that the animal has been inoculated in accordance with state law and this ordinance.

Section 11. Limitation on number of animals.

- a. Except as allowed in agricultural zoning areas, it shall be unlawful for any person to keep, possess or maintain more than five animals (that are over three (3) months of age) on a premises.
- b. It shall be unlawful for any person to keep, possess or maintain more than two dogs (that are over three (3) months of age) on a premises.
- c. This Section shall not apply to with respect to fish and insects. Any person in violation of this section shall have thirty (30) days to come into compliance.

Section 12. Interference with officer.

It shall be unlawful for any person to interfere with, hinder, molest, prevent, or obstruct an officer, employee, or agent of the City or of the County Health Office, or any authorized health officer, engaged in the enforcement of this ordinance or in the performance of their duties as set forth in this Ordinance.

Section 13. Penalties.

- a. Any person violating this Ordinance, shall, upon conviction, be punished by a fine of not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00), and/or may be imprisoned or sentenced to labor for the city for a period not exceeding six (6) months, at the discretion of the court trying the case; provided, however, no penalty shall consist of a fine or sentence of imprisonment exceeding the maximum fine or sentence of imprisonment established under state law for the commission of a substantially similar offense.
- b. Any corporation found to be in violation of this Ordinance shall, upon conviction, be punished by a fine of not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00), at the discretion of the court trying the case.
- c. Any person found guilty of violating this Ordinance shall be ordered by the Municipal Court Judge to pay as a part of restitution to the City (or to any other person or entity who has incurred expenses related to an animal existing in violation of this Ordinance) the expenses related to the animal and the violation, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this Ordinance.
- d. Each day during which a person violates any provision in this Ordinance shall constitute a separate offense from any violation on any following or prior day.
- e. Each animal existing in violation of this Ordinance shall constitute a separate offense from any other animal existing in violation of this Ordinance.
- f. No provision of this Ordinance designating the duties of any City or County officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty for a failure to perform such duty.

ARTICLE III. APPREHENSION OF ANIMALS RUNNING AT LARGE

Section 14. Apprehension of animals running at large.

Any animal found running at large within the corporate limits of the City may be picked up by the City, the County, or one of their designees, impounded, and confined in a humane manner.

Section 15. Impoundment of animals running at large.

- a. Whenever an animal is impounded pursuant to Section 14 of this Ordinance, the facility maintaining the pound shall make a reasonable effort to notify the owner of the animal so impounded and to inform the owner of the conditions under which the owner may regain custody of such animal.
- b. Any owner shall be entitled to resume possession of any impounded animal, except as otherwise ordered by a court of competent jurisdiction, or in cases of cruelty or neglect, which shall be handled as provided by state law, upon demonstration of compliance with the inoculation requirements of state law and the payment of impoundment, board fees, inoculation fees, and other fees that are due related to the animal's impoundment.
- c. For a second such impoundment of the same animal within a twelve-month period, the animal impoundment fee to the owner shall be doubled. For a third or subsequent animal impoundment within that period, the impoundment fee to the owner shall be tripled, provided that such fees shall not exceed statutory maximums.
- d. The owner of any impounded animal shall be legally responsible for the fees and charges of such impoundment whether or not the animal is claimed. The City shall have the right to assess and collect any and all fees and charges from said owner.

Section 16. Unredeemed animals running at large.

- a. If, unless impounded by order of court pursuant to contrary conditions or unless contrary directions are given by a duly authorized City agent, officer, or employee, any impounded animal is not reclaimed by its owner within ten (10) days from delivery, the City will abandon any claim that it may have to the impounded animal, and the pound facility may humanely destroy it or may transfer title to it and give ownership of it as provided in this section.
- b. In accordance with Paragraph 16.a., after the legal detention period of ten (10) days has expired and an impounded animal has not been claimed by its owner, then the pound facility may transfer the legal title to and give absolute ownership of any impounded animal to any of the following:
 - (1) The Walker County Humane and Adoption Center, the City of Jasper Animal Shelter, The Humane Society, Alabama Animal Adoption Society, or licensed animal clinic, without fee, provided that such society agrees to inoculate such animal to the satisfaction of the city; or

- (2) Any person deemed by the city to be a responsible and suitable owner who shall agree to comply with the provisions of this section, including inoculation and payment of the required fees.
- c. Animals may not be adopted by original owners or their immediate family member so as to avoid paying a violation fine or redemption fee.

ARTICLE IV. APPLICABILITY

Section 17. Effective date.

That this Ordinance shall become effective upon its publication as provided by law.

Section 18. Severability.

That the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by a court of competent jurisdiction, then such ruling shall not affect any other portion thereof and the remainder shall continue in full force and effect.

Section 19. Repealer.

Ordinance No. 01-2010 of the City of Cordova, Alabama, is hereby expressly repealed. Any other previously adopted ordinances of the City of Cordova, Alabama, regarding the regulation of animals that are inconsistent with the terms of this Ordinance are hereby repealed.

ADOPTED AND APPROVED THIS THE 12th DAY OF December, 2017.

DREW GILBERT, MAYOR

ATTEST:

Leanne Dawkins, City Clerk

CERTIFICATION OF CITY CLERK

STATE OF ALABAMA)
WALKER COUNTY)

I, Leanne Dawkins, City Clerk of the City of Cordova, Alabama, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance duly adopted by the City Council of the City of Cordova, Alabama, on the 12th day of December, 2017.

The above and foregoing ordinance was published on the _____ day of December, 2017, by posting copies thereof in three public places within the City of Cordova, one of which was the post office or the Mayor's office in the City of Cordova.

Witness my hand and seal of office this ____ day of _____, 2017.

Leanne Dawkins, City Clerk

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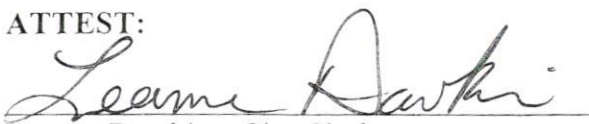
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