

**ORDINANCE NO. 2003-739**

**AN ORDINANCE REGULATING AND CONTROLLING ANIMALS IN ORANGE BEACH;  
REQUIRING RABIES INOCULATION, ESTABLISHING PENALTIES FOR VIOLATION OF  
THIS ORDINANCE, AND REPEALING ORDINANCE NO. 99-513**

**WHEREAS**, it is a public nuisance for animals to be allowed to run at large within the town limits and police jurisdiction of the City Council of Orange Beach, and

**WHEREAS**, it is in the best interest of the citizens of the City of Orange Beach that animals be prohibited from running at large or being off leashes within the City of Orange Beach.

**NOW THEREFORE**, BE IT ORDAINED by the Mayor and City Council of the City of Orange Beach that Ordinance Number 99-513 is hereby repealed and this Ordinance 2003-739 is substituted therefore.

**ARTICLE 1. DOGS AND OTHER ANIMALS**

DIVISION 1. GENERALLY

**SECTION 1: Definitions.** The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

*At large* means off the premises of the owner and not under control by leash, cord, chain or other physical restraint.

*City pound* means such place as designated by the city for the impoundment of animals found in violation of this article.

*Animal control officer* means any agent, officer or employee of the city who has been delegated to control animals.

*Inoculation against rabies or immunization against rabies* means as defined in Code of Ala. 1975, § 3-7A-1(6).

*Keep* means "confine," "harbor," and "allow to remain."

*Owner* means any person owning, harboring or keeping an animal or who has an animal in such person's care or custody or who acts as its custodian or who permits a animal to remain on or about the premises occupied by such person.

*Vicious or dangerous animal* means any animal that has, without provocation, or will, without provocation, bite or fiercely attack any person or other animal, or any dog that is of a breed which is bred as a fighting or attack dog, or such dog that has been especially trained as an attack, guard or fighting dog.

**SECTION 2: Animals at Large.** It shall be unlawful for any person to permit any animal to run or be upon any street, alley, sidewalk, thoroughfare, public place, or without permission on property other than that of the owner, unless such animal is under the control and supervision of the owner by physical presence, leash, cord, chain or other means.

**SECTION 3: Animals on Gulf Beaches.**

(a) It shall be unlawful for the owner of an animal to allow such animal, whether roaming at large or on a leash or otherwise under such owner's control, to go on the gulf beaches below mean high tide or in the waters of the Gulf of Mexico, or on any public property within the City of Orange Beach, except parking areas of public property within the City of Orange Beach.

(b) The gulf beach areas as used in this section is defined as that area bordered by the waters of the Gulf of Mexico or any bays, inlets, or canals thereto and the mean high tide, except on animal owners property or with permission of landowners.

**SECTION 4. Dogs and other animals constituting a nuisance.**

(a) Any animal which continuously emits noise with no apparent reason or by making a loud and raucous noise at such hours or times so as to disturb the peace of others or by chasing, biting, threatening

or intimidating any person, or by chasing vehicles, or creating foul and offensive odors or unsanitary conditions shall be deemed to be a nuisance. The owner of such animal shall, upon notification by the animal control officer or police officer, take whatever measures are recommended or necessary to abate such nuisance.

(b) Failure to abate such nuisance upon request shall be deemed a violation under this article and the animal control officer or police officer is authorized to issue a violation citation to the owner of such animal and or to impound the animal in accordance with this article.

**SECTION 5. Inhumane treatment of animals.**

It shall be unlawful for the owner or keeper of any animal to keep such animal in any enclosure or to keep the animal on any leash or other restraint unless the enclosure, leash or restraint shall be so arranged that such animal at all times shall have available water, shade and proper shelter. It shall be unlawful to treat an animal in any other inhumane manner.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT

*Subdivision I. In General*

**SECTION 6. Animal control officers to be provided, expenses, duties.**

(a) The council shall provide animal control officers who shall be an employee of the city and shall be paid such salary as the council shall prescribe. The expenses of such animal control officer(s), in the performance of their duties, together with their salaries, shall be paid from the general fund of the city, as may be necessary.

(b) It shall be the duty of the animal control officer(s) to enforce the provisions of this article; to attempt to rid the city of stray, homeless, unclaimed or diseased animals; to coordinate the functions of the humane officer with the work of the county rabies inspector and the county health department; and to perform such other duties as may be prescribed by the council.

**SECTION 7. Right of entry.**

(a) The animal control officers, their assistants, or any police officer of the city, shall have the right and it shall be such officer's duty to enter upon any property, except a private dwelling house, for the purpose of capturing any animal at large; or capturing any animal upon written complaint that such animal has bitten a human being; or capturing any vicious animal, rabid animal or any animal creating a nuisance in violation of this article.

(b) No person shall hinder, molest or interfere with any such officer who is authorized or empowered to perform any duty under this article.

**SECTION 8. Issuance of citations.**

The animal control officer(s) shall follow the process in the administrative citation ordinance.

*Subdivision II. Impoundment*

**SECTION 9. Procedure.**

(a) *Generally.* Any employee of the city, upon discovering animal at large in violation of this article, will promptly notify the animal control officer. When so notified or whenever the animal control officer observes any animal at large or in violation of this article, such officer may seize such animal and confine it in the city pound, the county animal center, the holding facility of a duly licensed veterinarian, or any facility which the city may have or may hereafter construct or contract for. Such officer shall also make a reasonable effort to notify the owner of such seizure and impoundment.

(b) *Animals on premises other than that of owner.* Any animal, whether wearing a tag or not, which is found upon the premises of a person other than the owner or keeper thereof, shall, at the request of the owner of such premises, be impounded by the animal control officer. The owner of the animal, if known, shall be notified of such impoundment and, if not known, shall be notified prior to the sale of the animal by posting notice of the sale as provided for in Section 14. Such animal may be redeemed by the owner under the procedures for redemption as provided for in Section 12.

**SECTION 10. Procedure when rabies or biting is suspected.**

If any impounded animal exhibits pronounced symptoms of rabies, or if the animal has bitten, scratched or had physical contact with any person, the animal control officer or poundkeeper shall notify the county health department, and impound the animal in accordance with the instructions from such department, until it is determined whether or not the animal has rabies. If the animal has rabies, it is to be destroyed; if it has not bitten anyone and does not have rabies, the poundkeeper is to allow the animal to be redeemed as set out in this subdivision and, if it is not redeemed, to destroy the animal humanely, or sell the animal as provided in this subdivision.

**SECTION 11. Procedure when biting is reported.**

(a) It shall be unlawful for any person having knowledge that any person has been bitten by an animal to refuse to notify promptly one or more of the officers mentioned in this section.

(b) It shall be unlawful for the owner of any such animal to refuse to or fail to comply with any recommendation made by the animal control officer or police officer in any particular case.

(c) It shall be unlawful for the owner of any such animal to refuse to deliver possession of the animal to any of such officer(s) demanding possession of such animal. The police department or animal control officer shall have the right to go upon the premises of the owner of such animal and forcibly take such animal and place such animal with a licensed veterinarian. Whenever the animal control officer or the police department shall receive information that any person has been bitten by an animal, the animal control officer or the police department shall have the animal confined under the direct care, custody, control and supervision of a licensed veterinarian for a period of ten days.

(d) The veterinarian under whose care an animal has been committed shall report the results of such veterinarian's observations of such animal to the person bitten or such person's physician or, in the case of a minor, to the parent or physician of the minor, or custodian or guardian of the minor. Any expenses incurred in the handling of any such animal, including the fees of the licensed veterinarian and board of such animal, shall be borne by the owner. Upon completion of the examination of such animal, such animal may be immediately released to the owner, if known, provided that the animal has been determined not to be rabid and that all fees, fines and expenses associated with the impoundment of such animal have been paid to the city clerk. No such impounded animal shall be returned to the owner until all fees and expenses have been collected. If the owner of such animal is not known or the owner neglects, fails or refuses to pay such fees, the animal shall be disposed of as provided for in Section 14.

**SECTION 12. Redemption.**

Any such animal, so impounded, may be retaken or redeemed from the pound by the owner within five days from impoundment, or at any time thereafter before sale or destruction of the animal, by paying to the city clerk the fee established by resolution. If such impounded animal has no inoculation tag, the owner must present a valid inoculation certificate at the time of redemption of the animal.

**SECTION 13. Illegally releasing animal**

It shall be unlawful for any person to release any animal from the city pound without first complying with Section 12.

**SECTION 14. Disposition of unredeemed or injured animals.**

(a) Every animal which has remained in a pound for five days and which has not been redeemed or retaken by the owner within such time shall be sold by the animal control officer or poundkeeper, after having first given 48 hours' written notice of the time of sale, with a description of the animal to be sold, by posting such notice upon a bulletin board at the city hall and police department; provided, however, that no such animal shall be sold at a price of less than the cost of boarding, inoculation and other reasonable expenses incurred, nor shall such animal be sold to any laboratory, testing facility or other experimental program. No such animal shall be released from a pound, either to the owner or to the purchaser, unless and until the animal shall have been inoculated, as prescribed in this article,

(b) Animals not redeemed or purchased as provided in this section shall be destroyed by the poundkeeper or other authorized person in a humane manner.

(c) Diseased or injured animals impounded under this article shall be destroyed by the poundkeeper or other authorized person in a humane manner without delay.

**DIVISION 3. VICIOUS ANIMALS**

**SECTION 15. Confinement required.**

It shall be unlawful for the owner or other person in charge to keep a vicious or dangerous animal unless such animal is securely confined, bound or adequately leashed in such a manner as to prevent such animal from biting or attacking a person or other animal.

**SECTION 16. Enclosures and posting of premises.**

Whenever a vicious or dangerous animal is permitted to run at large within a wall, fence or other structure, it shall be the duty of the owner or person in charge of such animal to give public notice or warning that such animal is at large within such enclosure by conspicuous posting of a written or printed notice at every unlocked entrance to such enclosure.

**SECTION 17. Authority in case of inadequate enclosure.**

Whenever a vicious or dangerous animal is not properly or securely confined, the animal control officer or the chief of police may order confinement of the animal until the owner or other person in charge of such animal provides an enclosure that is adequate to confine such animal. Until an enclosure is provided which the animal control officer or chief of police determines to be adequate, the animal control officer or chief of police may order confinement of such animal by such person, organization or agency as the animal control officer or chief of police shall determine. The cost of feeding and caring for the animal shall be paid by the owner. If the owner of such animal fails to provide an adequate enclosure within 30 days, such animal may be disposed of or exterminated in a manner prescribed by the animal control officer.

**SECTION 18. Reporting.**

(a) Whenever any person claims that an animal is vicious or dangerous, such person shall make a sworn statement before the municipal court magistrate or other municipal official authorized to administer oaths. Such sworn statement shall set forth the reasons for such claim. Upon completion of the sworn statement, it shall be delivered to the animal control officer or chief of police who shall immediately cause an investigation to be made.

(b) If, upon the evidence obtained from such investigation, the animal control officer or chief of police determines that such animal is vicious or dangerous, either such officer shall order the owner of the animal to securely confine, bind or leash such animal in accordance within Section 15.

(c) If the owner fails or refuses to comply with such order, the animal control officer or chief of police shall cause the animal to be confined at the expense of the owner in accordance with Section 17.

**SECTION 19. Liability of owner.**

A person owns or keeps a vicious or dangerous animal in the city at such person's own risk. If a vicious or dangerous animal escapes from its enclosure, confinement or leash or injures any person outside of the enclosure or area of confinement, the owner of such animal shall be criminally liable for the actions of such animal.

**SECTION 20. Duty of owner for removing feces of animals.**

(a) It shall be the duty of the owner or person in charge of any animal which has been allowed by such person to be off the premises of such person to remove and dispose of any feces deposited by such animal upon any residential lot of another occupied for human habitation, or upon any right-of-way adjacent thereto, upon demand from the owner or occupant thereof, or upon demand of a animal control officer.

(b) It shall be unlawful for any owner or person to fail or refuse to remove such feces; provided, however, that no prosecution shall be commenced and no arrest made pursuant to this section upon affidavit made before and warrant issued by a municipal judge or magistrate.

**SECTION 21. Animal owner's duty to remove over turned or scattered garbage.**

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 a secure authorized container any garbage or refuse which such animal has caused to be overturned, spilled, or scattered upon any residential lot occupied for human habitation, or upon any right-of-way adjacent thereto, upon demand from the owner or occupant thereof, or upon demand of an animal control officer or agent under the officer's supervision, and it shall be unlawful for any such person to fail or refuse to do so; provided, however, that no prosecution shall be commenced, and no arrest made pursuant to this section except upon affidavit made before and warrant issued by a duly appointed municipal judge or magistrate of the City.

This Ordinance shall become effective upon passage and publishing as required by law.

**ADOPTED** this 18<sup>th</sup> day of March, 2003.

ATTEST:

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Steve Russo, Mayor

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Cathy Larrimore, City Clerk