

ORDINANCE NO: 2011-1128

**AN ORDINANCE AMENDING CHAPTER 10, ARTICLE II OF THE
CODE OF ORDINANCES OF THE CITY OF ORANGE BEACH, ALABAMA
ENTITLED: "DOGS & OTHER ANIMALS"**

SECTION 1:

BE IT ORDAINED by the City Council of the City of Orange Beach, Alabama, that Chapter 10, Article II of the City's Code of Ordinances is hereby amended as follows:

Section 10-1: Title

This ordinance shall be known as the "Animal Control Ordinance" and shall apply within the City limits of the City of Orange Beach. This ordinance is adopted pursuant to general police powers and Alabama Code Section 11-47-110 (1975).

Section 10-2: Findings

(a) It is a public nuisance for animals to be allowed to run at large and it is in the best interest of the citizens of the City that animals be prohibited from running at large.

(b) Potentially dangerous and vicious animals have become a serious and widespread threat to the safety and welfare of citizens. In recent years, they have assaulted without provocation and seriously injured individuals, and have killed other animals. Some of these attacks have occurred in public places.

(c) The necessity for the regulation and control of public nuisance and vicious and potentially dangerous dogs and other animals is a city-wide problem, requiring city-wide regulation, and existing laws are inadequate to deal with the threat to public health and safety posed by nuisance, vicious and potentially dangerous dogs and other animals.

Section 10-3: Administration and Enforcement

This ordinance shall be administered and enforced by the Chief of Police and his designated animal control officers or police officers so assigned within the corporate limits of the City.

Section 10-4: Definitions

For the purpose of this article, words used in the present tense include the future, the singular number includes the plural, and the plural the singular. Words and terms are defined as follows:

Animal. Any live creature, both domestic and wild, except humans. "Animal" includes mammals, fowl, fish and reptiles.

Animal Control Officer. The Chief of Police or any agent, officer, or employee of the City who has been delegated by the Chief of Police to control animals.

Animal shelter. A facility operated by the City or humane society and designated or used as such by the City for the appropriate shelter and care of impounded animals.

At large. Any animal which is off the property of its owner or person in charge and not carried by said person, kept in an effective closure, or under control or restraint by such person by means of a leash in such a way as to prevent its free movement, and so as to prevent said animal from freely charging or attacking persons or animals. The term "at large" shall not apply to dog parks, nor shall it apply to animals participating in pet-friendly special events permitted by the City.

Bitten. Seized with teeth or jaws such that the skin of the person or thing seized has been nipped or gripped or has been wounded or pierced and there has been probable contact of saliva with the break or abrasion of the skin.

Caged. Confinement in a container, which may include a vehicle but not its trunk, in such a way that the free movement of such animal is restrained and so as to prevent the animal caged from biting or

attacking a person or animal.

Corral. Any uncovered, enclosed parcel of land where large animals are kept.

Dog. All members of the domestic canine family.

Exotic animal means any live monkey, alligator, crocodiles, cayman, raccoon, skunk, fox, bear, sea mammal, poisonous snake, member of the feline species other than domestic cat (*felis domesticus*), member of the canine species other than domestic dog (*canis familiaris*), or any other animal that would require a standard of care and control greater than that required for customary household pets sold by commercial pet shops or domestic farm animals.

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

Keep means to confine, harbor or allow to remain.

Owner /Person in Charge. Means any natural person or legal entity that has a right of property in the animal, or who keeps or harbors the animal, or who cares for the animal, or acts as its custodian, or who permits the animal to remain on or about any premises occupied by him or her. Any person who feeds a dog or cat not owned by him or her or who otherwise cares for the animal or whose control the animal is under.

Vicious Dog.

(1) A dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals.

(2) Any dog that has, without provocation, or will, without provocation, attack or bite a human being or domestic animal.

(3) Any dog trained or used for the purpose of dog fighting, or especially trained as an attack, guard or fighting dog.

Section 10-5: Exceptions

This ordinance shall not apply to dogs used by law enforcement officials for legitimate law enforcement purposes, nor dogs used as certified guide dogs for the blind, hearing dogs for the deaf nor aid dogs for the handicapped nor shall it apply to licensed kennels, humane society shelters, animal control facilities, or veterinarians.

Section 10-6: 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 for parking areas of public property within the City of Orange Beach. However, no owner shall be prohibited from permitting the animal within 50 feet of a building which the animal owner owns or leases.

(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 the animal owner's property or with the permission of the landowner.

Section 10-7: 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.

(c) It shall be unlawful for any person to keep any animal on any property located within the corporate limits of the City when the keeping of such animal constitutes a public nuisance or menace to public health or safety.

Section 10-8: Exotic Animals

It shall be unlawful for anyone to own, harbor, or permit any exotic animal without the written permission of the City Council. Such permission shall be given only if it is demonstrated to the satisfaction of the City Council that the animal will not constitute a threat to public health or safety. This section shall not apply to the temporary sheltering of animals by agents of recognized wildlife associations or zoos.

Section 10-9: Inhumane Treatment of Animals; Confinements and Leashes Generally

(a) It shall be unlawful for the owner or keeper of any animal to keep such animal in any enclosure or 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.

(b) It shall be unlawful for any person owning or controlling dogs or other animals to fasten, chain or tie any such animal for more than eight (8) hours within any 24 hour period.

(c) Any dogs confined within a fenced yard must have an adequate space for exercise based on a dimension of at least 150 square feet per dog.

(d) *Leashes.* Nothing herein shall be construed to prohibit owners or others from walking dogs with a hand held leash.

Section 10-10: Duty of Owner for Removing Feces of Animal

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 an animal control officer or police officer.

It shall be unlawful for any owner or person in charge of any animal to fail or refuse to remove such feces.

Section 10-11: Duty of Owner Remove Overturned 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, and it shall be unlawful for any such person to fail or refuse to do so.

Section 10-12: Dogs at Large, Duty to Restrain

(a) It shall be unlawful for the owner of any dog to permit such animal to be at large within the city at any time.

Section 10-13: Dogs Unlawfully at Large to be Confined; Adoption of Dogs Confined

(a) Any dog found unlawfully to be at large within the City is hereby declared to be a violation and shall be seized by a police officer and confined at the animal shelter and cared for in a humane manner for a period of not less than seven (7) calendar days. In addition to, or in lieu of, confining a dog found unlawfully at large, when the owner or person in charge of said dog is known to the police officer, the police officer may return the dog to the owner or person in charge and shall issue a warning or citation for violation of this chapter.

(b) Immediately upon seizure of a dog the police officer shall make reasonable effort to ascertain the identity of and notify the owner or person in charge of such animal's seizure and of the condition under which they may regain possession of it.

(c) Dogs may be held at the animal shelter until the expiration of the detention period if the animal has not been claimed by the owner or person in charge, and any unclaimed animal may be offered for adoption. The humane society, animal shelter, or its duly authorized agent, upon obtaining possession of each such dog, shall not release said animal to any person until the following requirements have been met;

(1) Dogs which appear to be three (3) months of age or older shall have received a rabies inoculation;

(2) Male dogs which appear to be six (6) months of age or older shall have been neutered;

(3) Female dogs which appear to be six (6) months of age or older shall have been spayed;

(4) Male dogs which appear to be less than six (6) months of age and female dogs which appear to be less than six (6) months of age, be adopted with the proviso in the certificate of adoption requiring neutering or spaying at the proper age with the proviso being accepted and signed by the adopter.

(d) Any dog that is maimed or diseased or, in the opinion of the humane society or animal shelter, is otherwise not suitable for adoption, shall not be put up for adoption. This paragraph, however, shall not be so construed as to preclude transfer of an injured, maimed, or diseased dog to a veterinarian agreeable to the humane society, animal rescue operation or animal shelter, with payment for subsequent veterinary services to be made by the humane society or animal shelter.

Section 10-14: Inoculation; Rabies; Bites

(a) Every animal in the City of Orange Beach must be in compliance with the inoculation and other requirements set out in Code of Ala., 1975 § 3-7A-1(6).

(b) 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 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 humanely destroyed; if it has not bitten anyone and does not have rabies, the animal may be returned to its owner or if not claimed by the owner placed for adoption or humanely destroyed.

(c) Every person having knowledge that any person has been bitten by an animal shall promptly notify the animal control officer.

(d) Whenever the animal control officer shall receive information that any person has been bitten by an animal, the animal control officer shall have the animal confined under the direct care, custody, and control and supervision of a licensed veterinarian for a period of ten (10) days and shall initiate a vicious animal investigation as set out herein. It shall be unlawful for the owner of any such dog to refuse to deliver possession of the dog to any such officer demanding possession of the dog.

(e) The veterinarian under whose care any 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 the boarding of such animal, shall be borne by 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 veterinarian and to the City. 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 humanely destroyed or placed for adoption.

Section 10-15: Harboring

(a) No person shall keep any animal for the purpose of animal fighting, or train, torment, badger, bait or use any animal for the purpose of causing or encouraging said animal to attack human beings or domestic animals when not provoked.

(b) No person shall sell, offer for sale, breed, buy or attempt to buy any vicious animal within the City.

Section 10-16: Investigation of Vicious Dogs

(a) When any person claims that an animal is vicious, he or she shall make a sworn statement to the police department setting forth the name of the animal's owner, the location where the animal is being kept in the City, and the reason he or she believes the animal to be vicious.

(b) Animal Control Officers are authorized to and shall initiate a vicious animal investigation in cases where a bite or serious injury to any person has been reported or when the officer has other reason to believe a dog may be vicious. The owner or keeper of the animal must cooperate with the investigating authority.

(c) Because vicious animals present an immediate danger to the public welfare, police officers and/or animal control officers shall be permitted to enter the exterior property where a vicious animal or animal alleged to be vicious is located for the purpose of investigating the allegation of viciousness. If the police officer and/or animal control officer has reason to believe an animal poses an immediate threat to the health, safety or welfare of the general public, the officer shall seize the animal and impound the animal at the City animal shelter or other appropriate shelter pending completion of the investigation and/or hearing.

(d) If an animal control officer or a law enforcement officer has investigated and determined that there exists probable cause to believe that an animal is potentially dangerous or vicious, the animal control officer, the chief officer of the public pound or his or her immediate supervisor or the head of the local law enforcement agency, or his or her designee, shall file a complaint with the Municipal Court of the City of Orange Beach. Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis for the animal control office or law enforcement officer to find probable cause shall be sworn to and verified by the complainant and shall be attached to the ordinance violation ticket.

Section 10-17: Remedies

If the Court determines that the animal is dangerous or vicious, the Court may order the following:

(a) Confinement:

Should confinement be ordered, the owner or keeper of the animal must provide suitable facilities for the animal, as detailed below, such facilities to be inspected and approved by the Police Department or Animal Control Officer. Upon satisfactory inspection and approval of the facilities, the Court will issue an Order of Release authorizing the animal to be released to the owner or keeper.

(1) Owners shall provide an exterior perimeter fence suitable to contain an average animal of the same type. The perimeter fence shall be constructed of chain link or wooden privacy type and shall be at least four (4) feet in height.

(2) Owners shall provide an additional fence or pen of adequate size inside the perimeter fence to humanely confine the vicious animal.

(a) This additional fence or pen may not share common fencing with the perimeter fence.

(b) This additional fence or pen must have secure sides and a secure top attached to all sides;

(c) All four sides of this additional fence or pen must be sunk at least two feet into the ground or the fence or pen must be built over a concrete pad to prevent the animal from digging out.

(d) The additional fence or pen must have an inward-opening gate and shall be kept locked at all times by pad lock or key lock except when tending to the care of the animal.

(e) The sides of this additional fence or pen shall be from ground to top at least twice the height of the animal, the height of the animal being measured from its shoulders.

(f) The additional fence or pen must not be positioned so that neighbors or passersby

have access to the animal. It must be no less than twenty (20) feet from any neighboring property line and must be secured so that children cannot trespass; and

(g) Signs shall be posted on each side of this additional fence or pen stating that a vicious animal is enclosed and shall specify the type of animal enclosed, i.e., "Vicious Dog". Signs must be printed and legible from 20 feet.

(h) The pen or structure must also provide the animal with protection from the elements and must at all times be kept in sanitary condition.

(i) Or, the owner or keeper may remove the animal from the City.

(3) Whenever the animal is outside either the additional fence or pen provided for in this section:

(a) It must be attended by the owner; and

(b) It must be restrained by a secure collar and leash or rope to [no longer than six (6) feet] and of sufficient strength to prevent escape; and

(c) It must be securely muzzled so as to effectively prevent such animal from biting another animal or person.

(4) No vicious animal shall be allowed outside the owner's property except in emergencies or for normal or necessary medical or health related treatment.

(b) Destruction of a Vicious Dog

In the event it is determined at the hearing that the release of the animal would create a significant threat to the public health, safety and welfare, the animal may be humanely destroyed by the Department of Animal Control.

(c) Vaccination Prior to Release to Owner

Prior to the release of any animal back to the custody of its owner or keeper, the owner or keeper must provide records showing the animal is current and up-to-date on all required vaccinations. If the owner or keeper does not produce those records to the satisfaction of the Animal Control Officer or Police Department, the animal shall be vaccinated prior to its release, at the owner or keeper's sole expense.

Section 10-18: Confinement Generally

No owner, keeper or harbinger of an animal shall permit a vicious or dangerous dog to be kept on a chain, rope or other type of leash outside of its fence and/or pen unless it is under physical control of a leash. Such dogs may not be leashed or chained to inanimate objects such as trees, posts, buildings, etc., outside of the perimeter fence and/or pen. No vicious or dangerous dog may be kept on a porch, patio or in any other portion of the house or structure that would allow the dog to exit such building or structure on its own volition. In addition, no such animal may be kept in a house or structure where screen doors are the only obstacle prevent the dog from exiting the structure.

Section 10-19: Procedure Upon Loss, Sale or Transfer of Animal

The owner or keeper of a potentially dangerous or vicious animal shall notify the Animal Control Officer or the Police Department immediately upon discovery that such potentially dangerous or vicious animal is loose or missing or that the potentially dangerous or vicious animal has attacked or wounded a human being or another animal. If the animal in question dies, or is sold, transferred, or permanently removed from the City, the owner of a potentially dangerous or vicious animal shall notify the Animal Control Officer or the Police Department of the changed condition and new location of the animal in writing within two (2) working days. If the owner or keeper of a potentially dangerous or vicious animal moves the animal to a different address within the City, such owner or keeper shall notify the Animal Control Officer or the Police Department of such fact and provide the new address within twenty-four (24) hours.

Section 10-20: Computer Registration of Vicious Dogs

The Police Department shall maintain a registry of all dangerous or vicious dogs as defined herein or as found to be vicious after a Municipal Court hearing.

Section 10-21: Penalty for Violation

Persons found guilty of violating this Code shall be punished in accordance with Section 1-7 of the City's Code of Ordinances.

SECTION 2: Repealer

This ordinance repeals Sections 10-21 through 10-87 of Chapter 10 of the City's Code of Ordinances.

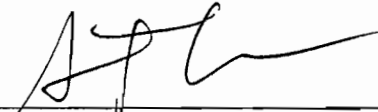
SECTION 3: Severability

If any section, subsection, clause or phrase of this ordinance is for any reason, held to be invalid, illegal or unconstitutional, such decisions shall not effect the validity of the remaining sections of this ordinance.

SECTION 4: Effective Date

This ordinance shall become effective immediately upon its adoption and publication as required by law.

ADOPTED this 1st day of March, 2011.


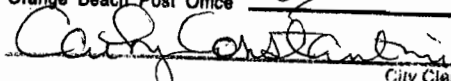


Anthony T. Kennon, Mayor

ATTEST:



Cathy Constantino, MMC
City Clerk

The City Clerk of the City of Orange Beach, Alabama hereby certifies that the foregoing _____ Ordinance 2011-1128 was posted 3/10/2011 in three (3) public places, viz:
Orange Beach City Hall _____
Orange Beach Public Library  _____
Orange Beach Post Office _____


City Clerk

