

Substitute

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 4, OF THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, ALABAMA REGARDING ANIMAL CONTROL**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MONTGOMERY, ALABAMA,** that Chapter 4, Article 1, Article II, Article III, Article IV and Article VI of Chapter 4 of the Code of Ordinances for the City of Montgomery, Alabama be amended to read as follows:

**ARTICLE I. IN GENERAL**

**Sec. 4-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandon* means to place upon public property or within a public building unattended or uncared for; and/or upon private property without prior permission of the owner, tenant or custodian of the property; and/or upon private property unattended or uncared for.

*Animal* means dogs and all members of the canine family, including dog hybrids, cats, goats, horses, mules, cattle, fowl, livestock, and any other domesticated mammals, fish, reptiles or birds.

*Animal control officer* means employees of the animal control unit duly and legally authorized by the city to enforce this chapter and carry out all other duties expressed or implied in any city chapter relating to animals or animal control; provided, however, that such officers shall not have the power of custodial arrest, and they shall function under the supervision of the police chief. Every animal control officer shall have the same powers as police officers for animal control purposes and the enforcement of this chapter, and shall function under the supervision of the city police chief and his assistants in the city police department.

*Animal control unit* means the unit within the Montgomery Humane Society responsible for enforcement of this chapter.

*Animal shelter* means the company, partnership, association, organization or corporation with whom the city contracts for the purpose of impounding and caring for animals held under authority of this chapter.

*At large* means off the premises of the owner and not under the control of the owner or his agent either by leash, cord, chain or otherwise.

*Attack* means Aggressive physical contact by a dog. Note. barking and/or growling are warnings that the dog is afraid of feels threatened in some way – warnings are a GOOD thing. The silent dog that gives NO warning prior to attack is truly a very dangerous dog..

*Bite* means to seize with the teeth so the skin of the person or animal seized has been wounded or pierced with a break or abrasion.

*Collar* means any band, chain, harness or suitable device worn around the neck of a dog to which a license may be affixed.

*Feral cat; feral dog* means any cat or dog that exists in a wild or untamed state, either due to birth or reversion to a wild state from domestication. The usual and consistent temperament of a feral cat or dog is extreme fear and resistance to contact or handling with or by humans. Feral cats and dogs are completely or substantially unsocialized to humans.

*Community Cat Colony* means a group of cats that congregates, more or less, together as a unit. Although not every cat in a colony may be feral, any nonferal cats that congregate with a colony shall be deemed to be a part of it.

*Impound* means the act of taking physical possession and control of an animal by an animal control officer or other officer empowered by city law, and transporting it to the animal shelter.

*Livestock* means domestic animals, such as horses, mares, mules, jacks, chickens, emus, pigeons, jennies, colts, cows, calves, yearlings, bulls, oxen, goats, pigs, hogs, sheep, or lambs, raised or kept for home use or for profit.

*Menacing* means to charge or menace by barking, growling, when not contained on a property of owner or when in violation of the leash law.

*Owner, custodian or person in charge* means any person having a right of property in the animal, or who keeps or harbors the animal, or who has it in his care, or acts as its custodian of the animal, or who permits the animal to remain on or about any premises occupied by him.

*Premises* means any real property titled in the name of, held in fee by, rented or leased to an individual, company or corporation.

*Provoke* means to incite, anger, irritate, exasperate, assault, abuse, or excite.

*Severe injury* means any injury which results in a broken bone, internal bodily injury or the death of any person.

*Wild animal* means any animal that is not cultivated, tamed or adjusted to live in a human environment.

*Wound* means a physical injury which results in puncture, muscle tear, broken bone, laceration, or permanent disfigurement.

#### **Sec. 4-2. Penalty for violation of chapter.**

- (a) Minimum fines for conviction of violation under Chapter 4, Article I—In general.
  - (1) *First violation.* Upon conviction, shall be a minimum fine of \$50.00. Any individual who witnesses a violation may make a sworn statement before a Magistrate of the City and a complaint will be issued to the owner of the dog.
  - (2) *Second violation.* For second conviction of a violation within a 12-month period, upon conviction, shall be a minimum fine of \$250.00.
  - (3) *For third and all subsequent violations.* For third and all subsequent violations within a 12-month period, upon conviction, shall be a fine of \$500.00.
- (b) Minimum fines for conviction of violation under Chapter 4, Article III—Rabies control.

- (1) *First violation.* Upon conviction, shall be a minimum fine of \$50.00.
  - (2) *Second violation.* For second conviction of a violation violation within a 12-month period, upon conviction, shall be a minimum fine of \$250.00.
  - (3) *For third and all subsequent violations.* For third and any subsequent violation within 12-month period, upon conviction, shall be a fine of \$500.00.
- (c) Minimum fines for conviction of violation under Chapter 4, Article IV—Vicious animals. Upon conviction, shall be a fine of \$500.00.
- (d) Unless otherwise specified in this chapter, violations of any section of this chapter are subject to punishment in accordance with section 1-6 of this Code.

**Sec. 4-3. Public nuisance animals.**

- (a) *Public nuisance prohibited.* It shall be unlawful for any person to fail to exercise the necessary care and control to prevent an animal in their possession or care from becoming a public nuisance animal. For purposes of this section, an animal is a public nuisance animal if the animal:
- (1) Habitually makes disturbing noises including, but not limited to barking, yelping, whining, or other utterances causing unreasonable annoyance or discomfort to others in close proximity to the premises where the animal is kept;
  - (2) Creates unsanitary conditions or offensive and objectionable odors in enclosures or surroundings and, thereby, creates unreasonable annoyance or discomfort to persons in close proximity to where the animal is kept;
  - (3) Trespasses on private property in such a manner as to create unsanitary conditions; or
  - (4) Damages property belonging to anyone other than its owner, including damage to flowers, gardens and shrubs.
- (b) *Complaints of public nuisance animals.*
- (1) Whenever any person shall complain to animal control officer or city police officer concerning a public nuisance animal, the animal control officer or city police officer will notify the owner or keeper of said animal or animals by written warning, that a complaint has been received and that the person should take whatever steps necessary to alleviate the specified nuisance. Such warning may be hand delivered or delivered by United States mail.
  - (2) If within seven days of the issuance of the warning specified in subsection (a), the owner or keeper of said animal or animals has not remedied or made substantial progress towards remedying the specified nuisance, then the complainant shall have the right to appear before the municipal court warrant clerk between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday and complete an affidavit/summons against the owner or keeper of said animal or animals. Before issuing said summons, the warrant clerk shall verify that the warning specified in subsection (a) was issued at least seven days prior to the filing of the affidavit by the complainant.
- (c) *Effect of article on public nuisance animals.* This article is cumulative in effect and shall not be held to restrict, repeal or limit any other sections or authority legally provided for or

possessed by the city under this Code, but shall be construed to constitute a separate and supplemental provision.

**Sec. 4-4. Abandonment of domesticated animals.**

It shall be unlawful for any person to knowingly abandon any animal or litter of any animal within the city. Each person who does abandon, or knowingly and willfully permits such abandonment, or aids in the abandonment of any animal shall be in violation of this section.

**Sec. 4-5. Cruelty to animals.**

(a) It shall be unlawful if the owner of or any person having custody or direct control of any dog:

- (1) Fails to provide clean, fresh potable water and food which is adequate for the animal's size, age, and physical condition. The water shall be either free flowing or provided in a removable receptacle that is properly secured to prevent tipping and rendering it useless, and shall also be of an adequate amount given the size of the animal and the environment in which the animal is kept to prevent the animal from overheating or dehydrating. The food provided to the animal shall be suitable for the animal's physical condition and age and in sufficient quality and quantities to maintain an adequate level of nutrition for the animal.
- (2) Overrides, overworks, overloads or overdrives any animal, causing physical pain or suffering;
- (3) Beats, tortures, injures, torments, poisons, deprives of necessary sustenance or mutilates any animal, causing physical pain, suffering or death;
- (4) Fails to provide adequate medical treatment for any sick, diseased or injured animal or any animal suffering from any type of parasitic infestation;
- (5) Keeps any animal under insanitary or inhumane conditions which are detrimental to the animal's health and general welfare, fails to properly groom the animal, including cutting or maintaining the animal's hair to an optimum length and condition appropriate for the animal's breed, or fails to maintain the animal in a condition of good order or cleanliness which increases the probability of transmission of disease, animal discomfort or suffering;
- (6) Fails to provide adequate shelter and space for an animal:
  - a. Any animal that is habitually kept outside or repeatedly left outside unattended shall be provided with a structurally sound, moisture-proof and wind-proof shelter large enough to keep the animal reasonably clean and dry. A shelter which does not adequately protect the animal from temperature extremes or precipitation, or which does not provide adequate ventilation or drainage, shall not comply with this section. Adequately protecting the animal from temperature extremes shall be determined by the animal control officer based on the breed, body condition, medical condition, hair coat, and age of the animal.
  - b. An animal's shelter and bedding and other accessible space shall be maintained in a manner which minimizes the risk of the animal contracting disease, being injured or becoming infested with parasites.

- c. Shelter for an animal is defined and interpreted as a structure having four sides in addition to a roof and floor with one side having an entrance or an igloo type structure specifically designed for outdoor housing of an animal. The animal shall be able to enter, stand, sit, lie down and turn around in the shelter in a normal manner. A barrel, keg, or drum shall not be considered shelter. Transport carriers designed to move an animal from one location to another and which do not have solid walls shall not be considered shelter.
  - d. The shelter and surrounding area shall be kept clean of accumulated feces, water, mud, garbage and any other debris, and shall provide at least one dry location for the animal to rest or stand.
  - e. The shelter shall be placed in an area that provides protection from the elements, including wind and rain, and direct rays of the sun, when sunlight is likely to cause overheating or discomfort.
- (7) Places or confines an animal or allows an animal to be placed or confined in a motor vehicle under such conditions or for such a period of time as to endanger or risk the endangerment of the health or welfare of the animal as may reasonably be expected to cause suffering, disability or death;
- (b) It shall be unlawful for any person to:
- (1) Tease, molest, bait or harass any animal;
  - (2) Promote, permit, stage, hold, manage, conduct, carry on, or attend fight or combat involving one or more animals or involving animals and humans;
- (c) The violation of any provision of this section shall constitute a misdemeanor and shall result in the removal of the animal when the director or an enforcement officer determines that such removal is necessary for the safety of the animal.

**Sec. 4-6. Animal fights; participation in and bets thereon.**

It shall be unlawful for any person to own, possess, keep or train any animal with the intent that such animal shall be engaged in an exhibition of fighting with another animal or human. It shall be unlawful to cause any animal to fight another animal or human, or to knowingly be present as a spectator or participant at any place where an exhibition of fighting animals is taking place, or to knowingly wager anything of value on the outcome of such fight.

**Sec. 4-7. Tying of animal on public property.**

It shall be unlawful for any person to tie, stake, or fasten any animal in such a manner that the animal has access to any portion of a street, highway, road, alley, sidewalk, right-of-way or other public place.

**Sec. 4-8. Tying of animal on another's property without permission.**

It shall be unlawful for any person to tie, stake, or fasten any animal upon private property of another without the express permission of the property owner.

**Sec. 4-9. Tying of animal allowing access to another's property.**

It shall be unlawful for any person to tie, stake, or fasten an animal in such a manner as to permit such animal to cross onto private property without the express permission of the property owner.

**Sec. 4-10. Leaving of dead animal on premises.**

It shall be unlawful for any person to leave or cause to be left upon any private or public property, sidewalk, alley, or right-of-way, any dead animal or the offal of any dead animal, for more than 24 hours after the death of such animal.

**Sec. 4-11. Possession of wild animals.**

It shall be unlawful for any person to keep or possess any wild animal or wild bird except as permitted by state law or federal law.

**Sec. 4-12. Bird sanctuary established.**

The territory comprising the city is declared a bird sanctuary. It shall be unlawful for any person to maim, kill or injure any wild or migrating bird within such territory.

**Sec. 4-13. Dogs running at large.**

- (a) *Running at large of dogs prohibited.* It shall be unlawful for the owner of or any person having custody or direct control of any dog to allow or permit a dog to run at large within the city.
- (1) A dog is running at large if it is not under the control of the owner or a person acting for the owner and it is not:
- a. Confined within a fence, wall or other enclosure in such a manner so as to effectively prevent the dog from traveling unto public property or the private property of another;
  - b. On a leash not more than six feet in length, while walking, secured by a collar or harness with swivel connections in such a manner to effectively prevent the escape of the dog;
  - c. Enclosed in a vehicle; or
- (2) It shall be no defense in any prosecution for a violation of this section that such dog was at large without the knowledge, consent, or permission of the person charged with such violation.
- (b) *Tethering*
- (1) As primary means of containment, dogs may be tethered by means of an overhead trolley system, or a line attached to an overhead pulley on a cable run if the following conditions are met:
- (1) Only one dog may be restrained to each device
  - (2) There shall be no unattended tethering of puppies under 6 months of age
  - (3) The device cable must attach to the dog by a properly fitted collar or harness worn by the dog. Choke chain collars, pinch or prong collars may not be used to connect the dog to the trolley

- (4) There must be a swivel attachment on both ends to prevent harmful tangling of the containment device
  - (5) The overhead cable run must be at least 4 and not more than 10 feet off the ground and the connecting cable of a length to allow the dog to access proper shelter from the elements of weather, food, and water, while not extending beyond the boundaries of the owner's property.
- (2) Tethering is prohibited during severe weather when a warning has been issued by the local National Weather Service
  - (3) No dog may be tethered when subjected to dangerous conditions, including attack by other animals, taunting, hitting, harassing, or threatening by people
  - (4) Notwithstanding the foregoing, a dog may be tethered while actively participating in or attending an organized show, field trial, agility event, herding contest or other similar exposition or event of limited duration, that involves the judging or evaluation of the animals, or when under the care and supervision of a licensed veterinarian.
- (c) *Enforcement of the prohibition against dogs running at large.* The animal control unit may capture and remove by impoundment any dogs found in violation of Sec. 4-13(a) or 4-13(b) within the city.
- (1) Any dog impounded pursuant to this section shall be turned over to the animal shelter where they will be housed for a period not more than five days for housing to await owner retrieval. If the owner of a dog is identified, the impounding officer may return the dog to the owner in lieu of taking it to the shelter. However, any dog that appear to be diseased, injured or wild can be humanely destroyed at any time during the five-day period with the joint approval of either the director or director of operations of the animal shelter, animal control supervisor and a licensed veterinarian.
  - (2) Dogs claimed within the five days will be returned to the owner after the owner has provided proof of rabies inoculation and paid all required fees as set out in subsection (c)(3). Dogs that are not claimed within five days after impoundment will become the property of the animal shelter.
  - (3) Owners claiming dogs from impoundment for violation of the prohibition against running at large shall be required to pay a fee of \$35.00 to the animal shelter for the pickup of the dog, one half of which will be returned by the animal shelter to the city general fund, and a fee of \$20.00 per day, per animal for each day the dog was housed at the animal shelter. The total amount of the daily housing fee is to be retained by the animal shelter.

**Secs. 4-14— Unlawful to sell, barter or give away animal.**

It shall be unlawful for any person to do any of the following:

- (a) Sell, give, trade, barter or give away a live animal as part of a commercial transaction on any street, highway, public right-of-way, parking lot, carnival, or sidewalk; or
- (b) Display or offer for sale, trade or barter, or display or offer to give away a live animal as part of a commercial transaction, if the act of selling or giving away the live animal is to occur on any street, highway, public right-of-way, parking lot, carnival, or sidewalk.

Animal adoption events held by an animal shelter or other duly incorporated IRS Code 501c(3) nonprofit animal rescue agency that are otherwise compliant with all other provisions of this chapter, are not prohibited by this section.

**4-15—4-40. Reserved.**

## **ARTICLE II. ADMINISTRATION AND ENFORCEMENT**

### **Sec. 4-41. Interference.**

- (a) It shall be unlawful for any person by any physical act to interfere with, resist, molest, obstruct, hinder or impede any animal control officer, agent of the humane shelter or other officer empowered to act by law in the discharge of such officer's duty while in the enforcement of this chapter.
- (b) It shall be unlawful to interfere with any animal control officer, agent of the humane shelter or other officer empowered to act by law, or to take or attempt to take any animal from the vehicle used to transport the animal, any humane trap used to apprehend animals or to take or attempt to take any animal from the animal shelter.

### **Sec. 4-42. Authority to impound.**

To promote the city's interest in seeing that all animals are treated humanely and to ensure the well-being of the citizens of the city, any animal control officer, city police officer or agent of the animal shelter is hereby authorized to impound any animal whenever he has reasonable cause to believe any of the following conditions exist:

- (1) The animal is the subject of an act of cruelty as prohibited by this chapter or state law;
- (2) The animal is running at large in violation of this chapter;
- (3) The animal has been abandoned;
- (4) The animal is the subject of investigation for viciousness pursuant to section 4-123;
- (5) The animal does not display a proper inoculation tag as defined in section 4-81 and the owner, if identified, does not produce proper inoculation documentation.

### **Sec. 4-43. Authority to enter private property to impound.**

Any animal control officer, city police officer or agent of the animal shelter is hereby authorized to enter upon private property to impound any animal observed at large and chased to such property.



**Sec. 4-44. Authority to utilize humane traps.**

Any animal control officer, city police officer or agent of the animal shelter is hereby authorized, in order to apprehend animals in violation of this chapter, which are otherwise difficult to apprehend, to use traps designed to humanely capture such animals by placing the traps on any public property of the city, upon the right-of-way of any public street or highway, or upon the private property of any person granting permission therefor.

**Sec. 4-45. Authority to utilize chemical capture methods.**

Any animal control officer or city police officer is hereby authorized to use chemical capture methods to capture animals in violation of this chapter when the use of humane traps would be ineffective and the animal is diseased or poses a danger to public safety.

**Sec. 4-46. Destruction of certain animals.**

- (a) Animal control officers and city police officers are authorized to destroy any animal at large contrary to the provisions of this chapter, provided that such officer has made reasonable efforts to capture such animal or to locate the owner of the animal and has been unable to capture the animal or to locate such owner of the animal and, in that officer's opinion, the animal constitutes a direct and immediate threat to the public health, safety or welfare.
- (b) Animal control officers and agents of the animal shelter are authorized to destroy any animal found unattended on public property when such animal is injured or diseased past recovery.
- (c) Animal control officers, city police officers and agents of the animal shelter are authorized to destroy any wild animal within the city limits which presents a direct and immediate threat to the public or any person individually.
- (d) The animal control supervisor is authorized to destroy any animal which has bitten or fiercely attacked any person causing severe injury, the loss of bodily function or death when the animal control supervisor believes such animal constitutes a direct and immediate threat to the public health, safety or welfare.
- (e) Taking into account all the relevant circumstances, animal control officers, city police officers and agents of the animal shelter are to employ the most humane means possible when exercising the authority granted under this section.

**Sec. 4-47. Animal shelter required to provide monthly accounting.**

The animal shelter will provide the animal control supervisor with a monthly report detailing the number and type of animals impounded, the number and type of animals claimed, and the number and type of animals destroyed during that month.

**Sec. 4-48—Authority to remove animals from vehicles.**

Any animal control officer, city police officer or agent of the animal shelter is hereby authorized to forcefully enter any vehicle in which an unattended animal is left when he/she has reason to believe that the animals wellbeing is at risk. Any animal found inside the vehicle may be impounded pursuant to Section 4-42(1) or Section 4-42(3).

### ARTICLE III. RABIES CONTROL

#### **Sec. 4-81. Definitions.**

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

*Bite* means seized with the teeth so the skin of the person or animal seized has been wounded or pierced with a break or abrasion. For purposes of this definition the existence of a bite must be determined by a licensed physician.

*Cat* means all members of the domesticated feline (*Felis catus*) family three months of age or older.

*Dog* means all members of the domesticated canine (*Canis familiaris*) family three months of age or older.

*Has been exposed* means seized with the teeth or claws, so that the skin of the person or animal seized has been wounded or pierced and includes suspected or confirmed contact of saliva with a break or abrasion of the skin or with any mucous membrane, as determined by a licensed physician.

*Inoculation tag* means a tag issued as required by state law coincident with the inoculation of a dog or cat against rabies.

#### **Sec. 4-82. Annual rabies inoculation required.**

It shall be unlawful for any person to own, possess, keep, maintain or harbor within the city limits any dog or cat which has not been inoculated annually against rabies as required by state law.

#### **Sec. 4-83. Collar or harness required; tag to be attached; removal prohibited.**

Every dog and cat over the age of three months shall wear a substantial, durable collar or harness when off the owner's premises, to which an inoculation tag shall be attached. It shall be unlawful for a person to remove the collar, harness or inoculation tag from any dog or cat without the consent of the owner.

#### **Sec. 4-84. Inoculation tag to be worn only by dog or cat for which issued.**

It shall be unlawful for any person to permit or allow any dog or cat under his ownership or in his charge or control to wear an inoculation tag issued for a different dog or cat.

#### **Sec. 4-85. Authority of animal control officer and other agents to enter upon premises for inspection of inoculation.**

Animal control officers, police officers and agents of the animal shelter shall have the right to enter upon any premises where a dog or cat is being kept, harbored or restrained for the purpose of verifying the rabies inoculation of the dog or cat.

**Sec. 4-86. Impounding of dogs and cats lacking proof of inoculation.**

Any dog or cat not wearing or displaying a proper inoculation tag and any dog or cat whose owner, if identified, is unable to produce proper inoculation documentation, shall be impounded as outlined in subsection 4-13(c).

**Sec. 4-87. Quarantine required in instance of bite.**

- (a) It shall be unlawful for any person having knowledge that a human being or domesticated animal has been bitten or exposed by a dog or cat to fail to notify either an animal control officer or the county health department of the incident.
- (b) Whenever an animal control officer shall receive information that a human being or domesticated animal has been bitten or exposed by a dog or cat, the animal control officer shall give written notice to the owner of the dog or cat that the dog or cat must be placed in quarantine under the direct supervision of a licensed veterinarian for a period of ten days subsequent to the date of the bite or exposure for the purpose of determining whether the dog or cat is infected with rabies. The owner of such dog or cat shall place the animal in quarantine within one business day of the date of the notice.
- (c) Such quarantine shall be at the expense of the owner of such animal.
- (d) When after a reasonable investigation, the animal control officer determines that the dog or cat is unowned, the dog or cat shall be humanely destroyed and the dog or cat shall be submitted for rabies examination to the state department of public health.
- (e) An owner may relinquish, in writing, the ownership of such dog or cat to the animal control officer for the purpose of humanely destroying the dog or cat to enable immediate testing to be performed on the animal by the department of public health.
- (f) It shall be unlawful for the owner of such dog or cat to refuse to comply with the lawful order of the animal control officer given pursuant to this section. It is unlawful for the owner to sell, give away, transfer to another location or otherwise dispose of any such dog or cat until it is released from quarantine by the veterinarian or other officer duly authorized under state law.

**Sec. 4-88—Animal Microchip—Required.**

- (a) *Required.* No person may own, keep, harbor, or have custody or control of any dog or cat over four (4) months of age within the city limits without having said dog or cat implanted with a microchip that is to be registered with both the Montgomery Humane Society and the issuing microchip company, unless one of the exceptions below is met.
- (b) *Exceptions:*
  - (1) The dog or cat is unable to be implanted with a microchip due to health reasons as verified by a veterinarian licensed by the Alabama State Board of Veterinary Medical Examiners.
  - (2) The owner of the dog or cat has resided within the City of Montgomery for less than 30 days.

- (3) The dog or cat owner is not a resident of the City of Montgomery and the animal will not remain within the City of Montgomery for longer than 30 days.
- (c) The owner of the dog or cat shall maintain their current contact information with a microchip registration company and the Montgomery Humane Society.
  - (1) If the owner's contact information changes, the owner shall update the Montgomery Humane Society and the microchip registration company not later than 30 days after the change in contact information.
  - (2) If the ownership of a dog or cat changes, the new owner shall provide the microchip registration company with his or her contact information not later than 30 days after the change in ownership.
- (d) Owners charged under this ordinance may submit proof to the municipal court that they have had their dog or cat microchipped and registered before their scheduled court date to have the charge dismissed.
- (e) Dog owners must have all dogs microchipped within twelve months after the date of its passage.

**Secs. 4-89—4-120. Reserved**

#### **ARTICLE IV. VICIOUS ANIMALS**

##### **Sec. 4-121. Vicious animal defined.**

A "vicious animal" is defined as an animal that attacks, bites or inflicts severe injury to human beings, pets, companion animals, or livestock while off of its owner's property and/ or in violation of Sec. 4-13.

The owner of any animal accused of being vicious is entitled to introduce evidence that the animal was provoked or that the animal(s) actions at the time of the alleged attack, bite or injury were justified. In regards to dogs specifically, no dog may be declared vicious based solely on the breed of said animal.

##### **Sec. 4-122. Confinement required.**

It shall be unlawful for any person to keep a vicious animal within the city limits unless the enclosure for said animal meets the conditions set forth by the provisions of section 4-124.

##### **Sec. 4-123. Vicious animal investigation and findings.**

- (a) When any person claims that an animal is vicious, he shall make a sworn statement before a magistrate in the city setting forth the name of the animal's owner or custodian, the location where the animal is being kept in the city, and the reason he believes the animal to be vicious. The sworn statement may be completed by any person having contact with the animal. The sworn statement will be delivered to the animal control unit and an animal control officer will complete a vicious animal investigation.
- (b) Animal control officers are authorized to initiate a vicious animal investigation in cases where a bite or serious injury to any person has been reported.

- (c) In the event the vicious animal investigation leads the animal control officer to believe the allegation is founded:
  - (1) The animal control officer will file a summons for the owner of the animal with the municipal court;
  - (2) The animal in question may be impounded at the animal shelter;
  - (3) A hearing date will be held in municipal court within 14 days of the date of service;
- (d) In the event the vicious animal investigation leads the animal control officer to believe the allegation is unfounded, the animal control officer will advise the complainant of his findings and submit the results of the investigation to the animal control supervisor.
- (e) A copy of all investigations made pursuant to this section will be kept on file in the animal control office.
- (f) If the municipal court determines the animal is a vicious animal:
  - (1) The animal will be held in impound until the owner complies with all orders of the court; however, the animal will be humanely destroyed if the owner fails to comply with all orders of the court within 20 days of the court's order.
  - (2) The vicious animal shall be microchipped.
  - (3) The vicious animal shall be spayed/neutered.
  - (4) The owner shall be required to pay all expenses involved with the pickup and impoundment of the animal at a rate of \$35.00 to the animal shelter for the pickup of the animal, one-half of which will be returned by the animal shelter to the city general fund, and a fee of \$20.00 per day, per animal for each day the animal was housed at the animal shelter. The total amount of the daily housing fee is to be retained by the animal shelter.
  - (5) The owner shall be required to pay an annual \$100.00 registration of animals deemed vicious by municipal court or penalty of \$100.00 for non-registration within two weeks. The owner must provide proof of liability insurance as required by section 4-123(f)(6) each time the annual registration fee is paid.
    - a. The registration fee shall be payable to the Revenue and Licensing Division of the City of Montgomery Finance Department, which will provide proof of payment to the registrant.
    - b. The registrant shall then take proof of payment to the Montgomery Humane Society, which will maintain registration and liability insurance records on behalf of the City of Montgomery
  - (6) The owner shall be required to obtain liability insurance coverage of at least \$100,000.00 and provide proof of insurance to the Montgomery Humane Society. The insurance must provide coverage for animal bites, injuries or death caused by an animal.

**Sec. 4-124. Enclosure specifications for vicious animals.**

- (a) Whenever a vicious animal is permitted to stay or remain in the city, the following requirements and any other requirements deemed necessary and appropriate for public safety by the animal control supervisor shall be adhered to by owner of said vicious animal.
- (b) 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 feet in height.
- (c) Owners shall provide an additional fence or pen of adequate size inside the perimeter fence to humanely confine the vicious animal.
  - (1) This additional fence or pen may not share common fencing with the perimeter fence;
  - (2) This additional fence or pen must have secure sides and a secure top attached at all sides;
  - (3) 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;
  - (4) This 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;
  - (5) 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;
  - (6) This additional fence or pen must not be positioned so that neighbors or passers by have access to the animal. It must be no less than 20 feet from any neighboring home; and
  - (7) 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".
- (d) Whenever the animal is outside either the additional fence or pen provided for in this section:
  - (1) It must be attended by the owner; and
  - (2) It must be restrained by a secure collar and leash or rope no shorter than eight feet nor longer than ten feet in length and of sufficient strength to prevent escape;
- (e) No vicious animal shall be allowed outside the owner(s) property except in emergencies or for normal or necessary medical or health related treatment.
- (f) No vicious animal shall be chained, tethered, or otherwise tied to any object such as a tree, post or building, outside of its additional fence or pen as provided in this section.
- (g) An electronic animal confinement systems shall not be used to confine a animal classified as vicious.

**Sec. 4-125. Authority of animal control officer when enclosure deemed inadequate.**

When a vicious animal is not properly or securely confined pursuant to the provisions of this chapter, the animal control supervisor shall order confinement of the animal with a licensed veterinarian or with the animal shelter until the owner or other person in charge of such animal provides an enclosure which complies with the provisions of section 4-124. Provided, however, that if the owner or other person in charge of such animal fails to provide a proper enclosure as provided by section 4-124 within 30 days, such animal shall be disposed of as directed by the animal control supervisor. All costs of feeding and caring for such animal during said confinement shall be paid by the owner, provided however, that the daily cost of confinement at the animal shelter shall not exceed \$20.00 per day for the first five days and \$5.00 per day thereafter.

**Sec. 4-126 – 4.160 Reserved**

**ARTICLE VI. BREEDING, TRAINING, BOARDING**

**Sec. 4-181. Animal Business; Special Permit**

- (a) Any Animal Business may engage in the business of breeding, buying, selling, trading, training, raising or boarding animals so long as the business is in compliance with all local, state and federal laws.
- (b) It shall be unlawful for any person to engage in the business of breeding, buying, selling, trading, training, raising or boarding, without having obtained a special permit for the business venture. There shall be only one special permit issued per business venture. The special permit shall be issued by the City of Montgomery Revenue Department. The fee for such special permit, or any renewal thereof, shall be \$150.00 and shall be valid for one year from the date of issuance.
- (c) Before obtaining a special permit or renewal thereof, the applicant shall:
  - (1) Provide proof of a current and valid business license issued by the City of Montgomery,
  - (2) Provide proof of liability insurance coverage for animal bites, injuries or death caused by an animal,
  - (3) Provide proof of rabies vaccinations for all animal older than 4 months of age.
  - (4) Provide veterinarian records for all animals that enter or leave their care within the 12 months prior to the date of application.
- (d) Before issuing a special permit or any renewal thereof, the Animal Control Office shall:
  - (1) Conduct an inspection of all premises where the applicant plans to engage in the business of breeding, buying, selling, trading, training, raising or boarding. During the inspection, any noted violations of current municipal or state animal laws must be identified and provided in writing to the person applying for the permit and corrections verified by a follow up inspection prior to the permit being issued.
- (e) If a complaint is received by the Animal Control Unit, that a violation of Chapter 4 has occurred, animal control officers may, after issuing a written notice within a reasonable

amount of time, conduct an inspection of all premises where the applicant plans to engage in the business of breeding, buying, selling, trading, training, raising or boarding to ensure that all animal laws and ordinances are being adhered.

- (f) Exempt from inspections are government owned facilities or licensed veterinarians or dog shows.
- (g) Exempt storefront facilities from special permits.

#### **Sec. 4-182. Exemption from fees.**

The city shall issue a license upon application and without payment of a license fee required under this section for:

- (1) Trained guide dog owned or kept by a visually impaired person or such a dog awaiting training;
- (2) A trained hearing dog owned or kept by a hearing-impaired person or such a dog awaiting training;
- (3) A trained service dog owned or kept by a physically impaired person or such a dog awaiting training;
- (4) A trained search and rescue dog recognized by the Central Alabama Search and Rescue or by another search and rescue association or organization that cooperates with and is recognized by state and local law enforcement; and
- (5) A dog certified by the state and used for law enforcement purposes.
- (6) Dogs or cats being cared for or fostered by a duly incorporated animal rescue organization possessing IRS 501(c)3 status.

#### **Sec. 4-183. Misrepresentation of service dog.**

A person who fits a dog with a harness, collar, vest or sign of the type commonly used by blind persons in order to represent that the dog is a service dog or commonly used by persons with disabilities to represent that the dog is a service dog when training of the type that guide dogs normally receive has not been provided or when

#### **Sec. 4-184. Suspension or revocation of special permit.**

- (a) The special permit may be suspended or revoked by the municipal court judge of the City of Montgomery upon an individual's adjudication of guilt of any ordinance under chapter 4 of the City of Montgomery Code of Ordinances. This penalty is in addition to all other criminal penalties authorized by law.
- (b) The special permit may be suspended or revoked by the chief of police for the City of Montgomery. However, such suspension or revocation may be appealed to the city council



by giving written notice to the city clerk within 30 days of the date of the suspension or revocation. However, if the basis of the suspension or revocation is an alleged violation of an ordinance within chapter 4 of the City of Montgomery Code of Ordinances, the alleged violation shall be prosecuted and suspension or revocation shall be determined by the municipal court judge.

- (c) Any person whose application for a permit is denied, or whose permit is revoked, shall have the right to have said denial or revocation reviewed by the city council. The city council's determination shall be binding and conclusive of the issue.

ADOPTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
STEVEN L. REED, MAYOR

ATTEST:

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BRENDA GALE BLALOCK, CITY CLERK