

ORDINANCE NO: 07-O-12

AN ORDINANCE AMENDING THE ANIMAL CONTROL ORDINANCE FOR THE CITY OF ANNISTON

BE IT ORDAINED by the City Council of the City of Anniston, Alabama, as follows:

Chapter 4, Animal Control, of the Code of Ordinances for the City of Anniston, Alabama shall be and the same is hereby amended to read as follows:

WHEREAS, potentially dangerous and vicious animals have become a serious and widespread threat to the safety and welfare of citizens of this city and in recent years, they have assaulted without provocation and seriously injured numerous individuals and have killed numerous other animals; and whereas many of these attacks have occurred in public places; and

WHEREAS, the number and severity of these attacks are attributable to the failure of owners to register, confine, and properly control vicious and potentially dangerous dogs and other animals; and

WHEREAS, the necessity for the regulation and control of 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 vicious and potentially dangerous dogs and other animals, the animal control regulations for the City of Anniston are hereby amended as follows:

Section 1: 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. The term shall mean any nonhuman, animate being which is endowed with the power of voluntary motion to include, but not limited to: Mammals, i.e. dogs, cats, horses, hogs, cows, sheep, goats, rabbits, etc.; reptiles; birds; salamanders; toads; frogs; sharks; snakes; rays; bony fishes; and amphibians.

Animal shelter. The place designated or used as such by the city for the maintenance and operation of a pound.

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.

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.

Cat. All members of the domestic feline family.

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

Dog. All members of the domestic canine family.

Dogs Presumed to be vicious. Any dog which is known by the owner or person in charge to habitually chase moving vehicles or charge persons on the public streets and other public ways shall be presumed to be vicious, whether or not such dog has actually bitten or attacked a person or other animal.

Owner. means any person, firm, corporation, organization, or department 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, or who permits the animal to remain on or about any premises occupied by him or her.

Person in Charge. Any person who feeds a dog or cat not owned by him or her or who otherwise cares for the animal.

Vicious dog.

- (1) Any 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 which because of its size, physical nature or vicious propensity is capable of inflicting serious physical harm or death to humans and which constitutes a danger to human life or property if it were not kept in the manner required by this chapter.
- (3) Any dog which, without provocation, attacks or bites or has attacked or bitten a human being or domestic animal.
- (4) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.
- (5) Any Pit Bull Terrier, which shall be defined as any American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier breed or dog, or any mixed breed of dog which contains as an element of its breeding the breed of

American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier as to be identified as predominately of the breed of American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Bull Terrier.

Section 2: Exception

The terms “potentially dangerous” and “vicious” 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 3: Harboring

No person shall own or harbor 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.

No person shall sell, offer for sale, breed, buy or attempt to buy any vicious animal within the city.

Section 4: Registration of Dogs

The owner or keeper of a dog within the city limits of Anniston shall annually register such animal with the [Department of Animal Control of the City]. The registration application shall contain:

Name of owner or keeper;

Address of the owner or keeper;

Breed, age, sex, color of animal;

Any other identifying marks of the animal;

Location where the animal is to be kept if not at the address of the owner;

Proof of vaccination for rabies within the preceding twelve (12) months;

Any other information the City may require

In addition to the information listed above, if an animal is vicious or presumed to be vicious, as defined herein or as is determined at a hearing for such purpose, then the owner shall provide two identification color photographs of the animal clearly showing the color, any markings and approximate size of the animal.

The tag and a certificate of registration or license shall be of such form and design and

shall contain such information as the City shall prescribe and shall be issued to the owner or keeper upon payment of the registration fee. The registration fee for all neutered and spayed dogs shall be \$0.00 and the registration fee for all un-neutered and un-spayed dogs shall be \$5.00.

The owner or person in charge shall at all times, except when a dog or cat is under control or restraint on its own premises, keep the tag affixed to said dog or cat. It shall be unlawful for any owner or person in charge of an animal to fail to comply fully with all of the requirements of this section by failing to register a dog or a cat. It shall also be unlawful for any person, except the owner or person in charge and upon its own premises, to remove a tag from a dog or cat tagged under the provisions of this section or to place a tag upon a dog or cat for which said tag was not issued, to procure a tag from the City by fraud or misrepresentation, or to disfigure or alter the words or figures upon a tag.

If a tag becomes lost or mutilated it shall be replaced with a tag or decal marked "duplicate" upon payment of the fee of \$3.00. No duplicate tag or decal shall be issued unless the dog or cat has been inoculated for rabies within twelve (12) months of the date of issuance of the duplicate tag.

Section 5: Exception to Registration

The registration requirements of Section 5 shall not apply to dogs or cats whose owners are nonresidents and are temporarily within the City for a period not exceeding thirty (30) days.

Section 6: Insurance

All owners or keepers of a vicious dog or dog presumed to be vicious, as previously defined or as shall be determined to be vicious after judicial review, shall provide proof of liability insurance in a single incident amount of at least \$100,000.00, specifically covering any damage or injury which may result from the ownership, keeping or maintenance of such animal.

The policy shall contain a provision requiring the City to be named as an additional insured for the sole purpose of being notified by the insurer of any cancellation, termination or expiration of the liability insurance policy.

Section 7: Dogs and Cats at large, Duty to Restrain

- (a) Dogs. It shall be the duty of every owner or person in charge of a dog to keep said animal under control or restrained while the same is within the corporate limits of the city, whether or not said dog is upon or away from the premises of the owner or person in charge. It shall be unlawful for the owner or person in charge of any dog to cause, permit or allow the dog to be at large and to fail to keep the dog under control or restraint. Proof that a dog was not properly restrained, whether on or off the premises of the owner or person in charge, shall be prima facie evidence of a violation. Negligent failure to provide or maintain control or restraint shall not be a defense; however, competent evidence that said failure was

occasioned by an unforeseeable and independent act of a third person shall shift the burden on the city to prove otherwise.

- (b) Cats. It shall be the duty of every owner or person in charge of a cat to keep said animal under control or restrain while the same is within the corporate limits of the city, whether or not said cat is upon or way from the premises of the owner or person in charge. It shall be unlawful for the owner or person in charge of any cat to cause, permit or allow the cat to be at large and to fail to keep the cat under control or restrain. Proof that a cat was not properly restrained, whether on or off the premises of the owner or person in charge, shall be prima facie evidence of a violation. Negligent failure to provide or maintain control or restrain shall not be defense; however, competent evidence that said failure was occasioned by an unforeseeable and independent act of a third person shall shift the burden on the city to prove otherwise.
- (c) Dogs or cats in immediate presence of owners in public. A dog or cat which is not vicious or presumed to be vicious, and which is obedient either by training or temperament, shall not be considered at large while upon a public street or other public place if it is in the immediate presence and under voice control of its owner or person in charge. Any dog or cat not obedient to direct voice command, to be under control or restraint, must be carried by the owner or person in charge, caged or controlled by means of a leash in such a way as to prevent its free movement. A dog or cat which is more than fifteen (15) feet from the actual location of its owner or person in charge shall not be considered in the immediate presence of such person and voice control.

Section 8: Dog or Cats Unlawfully at Large to be Confined; Sale of Dogs or Cats Confined

- (a) Any dog or cat 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 or cat found unlawfully at large, when the owner or person in charge of said dog or cat is known to the police officer, the police officer may return the dog or cat 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 or cat 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 or cats 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. The humane society, animal shelter, or its duly authorized agent, upon obtaining possession of each such dog or cat, shall not release said animal to any person

until the following requirements have been met;

- (1) Dogs and cats which appear to be three (3) months of age or older shall have received a rabies inoculation;
 - (2) Male dogs and male cats which appear to be six (6) months of age or older shall have been neutered;
 - (3) Female dogs and cats which appear to be six (6) months of age or older shall have been spayed;
 - (4) Male dogs and male cats which appear to be less than six (6) months of age and female dogs and cats 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.
 - (5) Reimbursement of all costs for food, shelter and treatment of the animal must be made to the revenue department of the city. Said costs shall be reimbursed to the agency or shelter.
- (d) No dog or cat that is maimed or diseased or, in the opinion of the humane society or animal shelter, not suitable for adoption shall be put up for adoption. This paragraph, however, shall not be so construed as to preclude transfer of an injured, maimed or diseased dog or cat 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 9: Investigation of Vicious Dogs

When any person claims that an animal is vicious, he or she shall make a sworn statement 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.

The sworn statement will be delivered to the Animal Control Officer who will complete a vicious animal investigation.

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 or when the officer has other reason to believe a dog may be vicious.

Police officers and/or animal control officers shall be permitted to enter the exterior property where a vicious animal or animal presumed 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 may seize the animal and impound the animal at the animal shelter pending completion of the investigation and hearing.

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 animal control department or his or her immediate supervisor or the head of the local law enforcement agency, or his or her designee, shall petition the Municipal Court of the City of Anniston for a hearing for the purpose of determining whether or not the animal in question should be declared potentially dangerous or vicious. Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis for the animal control officer or law enforcement officer to find probable cause shall be sworn to and verified by the complainant and shall be attached to the petition.

In the event the vicious animal investigation leads the Animal Control Officer to believe the allegation is unfounded, the Animal Control Officer shall advise the complainant of his findings and submit the results of the investigation to the Municipal Court and his animal control supervisor.

Section 10: Notice, Hearing, and Appeal

- (a) The owner or keeper of the animal shall be served with notice of the hearing and a copy of the petition, either personally or by first-class mail with return receipt requested. [The hearing shall be held no less than ten (10) days nor more than twenty (20) days after such notice is mailed to the owner or keeper of the animal] and shall be open to the public.
- (b) At such hearing all interested persons shall have the opportunity to present evidence on the issue of the animal's dangerousness. The court may admit all relevant evidence, including incident reports and the affidavits of witnesses, photographs and video tapes, limit the scope of discovery, and may shorten the time to produce records or witnesses.

In the event that the animal in question has caused injury to any person, the municipal judge may impound the animal, at the owner's expense, pending the hearing and determination of the complaint. If the court finds that the animal is potentially dangerous or vicious, it may make any orders authorized by this chapter or other laws, including but not limited to assessment of fines and costs as provided in this Code.

- (c) After the hearing conducted pursuant to this Section, the owner or keeper of the animal shall be notified in writing of the determination and orders issued, either personally or by first-class mail postage prepaid by the municipal court. If a determination is made that the animal is potentially dangerous or vicious and no appeal is filed, the owner or keeper shall comply with the municipal court's order no later than fourteen (14) days following the rendering of the decision. If the owner or keeper of the animal contests the determination, he or she may, within

fourteen (14) days of the municipal court's decision appeal the decision to the circuit court of the county. All filing fees and costs shall be paid by the owner or keeper of the animal. The owner or keeper of the animal shall serve notice upon the city that the appeal has been filed.

- (d) The Circuit Court shall conduct a hearing de novo, and make its own determination as to potential danger and viciousness and make other orders authorized by this chapter, based upon the evidence presented. The court may admit all relevant evidence, including incident reports and the affidavits of witnesses, limit the scope of discovery, and may shorten the time to produce records or witnesses. If the court rules the animal to be potentially dangerous or vicious, compliance with the order shall begin within seven (7) days of the date of the court's determination.
- (e) The determination of the circuit court shall be final and conclusive upon all parties. However, the animal control authority shall have the right, following due process, to later declare an animal to be vicious or to determine that the animal constitutes a threat to the public health and safety, for any subsequent actions of the animal.

Section 11: Effect of Failure to Appear at Hearing

The municipal court or the circuit court on appeal may decide all issues for or against the owner or keeper of the animal even if the owner or keeper fails to appear at the hearing provided that there is some evidence that the owner or keeper did receive notice of the hearing.

Section 12: Regulation of Potentially Dangerous or Vicious Animals

If it is determined at the hearing that the animal is dangerous or vicious, the Court may order the following:

A. Confinement:

- (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 at 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 passers by have access to the animal. It must be no less than twenty (20) feet from any neighboring property line; 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.
- (3) Whenever the animal is outside either the additional fence or pen provided for 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 eight (8) 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. When it is Determined that the Animal is not Dangerous or Vicious

In the event it is determined at the hearing that the animal is not vicious, the court shall inform the complainant of said findings.

Section 13: Minor Owner or Keeper

In the event that the owner or keeper of a potentially dangerous or vicious animal is a minor, the parent or guardian of such minor shall be liable for all injuries and property damage sustained by any person or domestic animal caused by a unprovoked attack by such potentially dangerous or vicious animal.

Section 14: Person in Charge of Animal

Any person who feeds a dog or cat not owned by him or her or who otherwise cares for the animal shall be subject to this code as if they are the owner of the animal.

Section 15: Procedure Upon Loss, Sale or Transfer of Animal

The owner or keeper of a potentially dangerous or vicious animal shall notify the department of animal control or the police department within twelve (12) hours if such potentially dangerous or vicious animal is loose or missing or if 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 or county where the owner or keeper resides, the owner of a potentially dangerous or vicious animal shall notify the animal control 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 limits of the city, such owner or keeper shall notify the department of animal control of such fact and the new address within twenty-four (24) hours.

Section 16: Keeping Potentially Dangerous or Vicious Animals

It shall be unlawful for any owner, keeper or other person to be in violation of any provision of this chapter or any order of any court as provided in this chapter. Any owner or keeper found to be in violation of this section or any provision of this chapter shall be guilty of a misdemeanor and shall be punishable as provided in Section 17 of this Code.

Section 17: Penalty for Violation

The penalty for violation of any provision of this Ordinance shall be as follows:

1 st Offense	Not less than \$300.00 or more than \$500.00 and/or not to exceed 90 days in jail;
2 nd and Subsequent Offenses	\$500.00 and/or not to exceed six (6) months in jail.

In addition, the Court shall assess the violator with any and all costs incurred for the impoundment and/or destruction of the dog.

Section 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 preventing the dog from exiting the structure.

Section 19: Computer Registration of Vicious Dogs

All dangerous or vicious dogs as defined herein or as found to be vicious after a Municipal Court hearing shall be registered on the City's website. Such registry shall include the address where the dog is located and identifying information on the dog, including two (2) identifying color photographs of the dog. The registry shall not contain the name or names of the owners or tenants at said location.

Section 20: 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 21: Specific Sections Repealed; Ordinance Cumulative

Specifically repealed by this Ordinance are Section numbers 4.1, 4.31, 4.36, 4.38 and 4.39 of Chapter 4 of the Code of Ordinance for the City of Anniston. This Ordinance shall not be construed to repeal any other provisions of the existing code or Ordinances of the City of Anniston, including any and all Animal Control Ordinances and shall instead be held to be in addition to and cumulative of the existing Code and Ordinances of the City of Anniston, except as is hereby specifically repealed.

All ordinances or parts of ordinances conflicting herewith are, to the extent of such conflict, hereby repealed.

Section 22: Effective Date

This Ordinance shall become effective immediately upon its adoption and publication one (1) time in The Anniston Star, a newspaper of general circulation published in the City of Anniston, Alabama, and the City Clerk is hereby ordered and

directed to cause a copy of this Ordinance to be published one (1) time in said newspaper.

The registration requirements contained herein shall become effective and enforceable on January 2, 2008.

PASSED AND ADOPTED this the 27th day of November, 2007.

CITY COUNCIL OF THE CITY OF
ANNISTON, ALABAMA

By: /s/ Hoyt W. Howell, Jr., Mayor

By: /s/ Floyd S. Bennett, Jr., Council Member

By: /s/ Herbert Palmore, Council Member

By: /s/ Benjamin Little, Council Member

By: /s/ Jeff Fink, Council Member

ATTEST:

/s/ Alan B. Atkinson, City Clerk