

**AN ORDINANCE BY THE CITY OF CHARLESTON CONCERNING ANIMAL CONTROL, ETC.**Sec. 3-1. Definitions.

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

*Animal* means any live, vertebrate creature, domestic or wild, except homo sapiens. *Animal control division* means the review and enforcement authority under the supervision of the environmental services department (in direct cooperation with the police department whenever requested) and empowered to administer this title.

*Animal control officer* means any person designated by the city as a law enforcement or animal control officer who is qualified to perform such duties under the laws of this state.

*Animal shelter* means any facility operated by a municipal agency, or its authorized agents, for the purpose of impounding or caring for animals held under the authority of this title or state law.

*Feral dog* means a dog that *has* escaped from domestication and become wild, dangerous or untamed,

*Owner means any person, partnership or corporation owning, keeping or harboring one (1) or more animals. An animal shall be deemed to be harbored if it is fed or sheltered. Performing-animal exhibition* means any spectacle, display, act or event, other than a circus, in which performing animals are used.

*Pet means any animal kept for pleasure rather than utility.*

*Pet store* means any place of business which sells birds, fish, reptiles or mammals intended for use as pets; however, this shall not include commercial and hobby breeders.

*Public nuisance* means any animal which:

1. Molests passersby or passing vehicles;
2. Attacks other animals;
3. Trespasses on school grounds, city parks or private property;
4. Repeatedly runs at large;
5. Damages private or public property;
6. Barks, whines, screams or howls in an excessive, continuous or untimely fashion;
7. Defecates or frequently urinates on public property or private property of one other than its owner;
8. Is allowed by its owner to become a nuisance to people or other animals. *Restraint* means the condition of securing any animal, by a leash or lead of less than six (6) feet, within the fenced real property limits of its owner, or by tethering in such a way that the animal is within the real property limits of its owner.

*Running at large* means any animal not under restraint.

*Veterinary hospital means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals+ Vicious animal means any animal, except dogs, that constitutes a physical threat to human beings or other animals.*

*Vicious dog means:*

1. Any dog which has shown a propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human, beings or domestic animals.
2. Any dog which when unprovoked bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal on public or private property, or chases or approaches a person upon the streets, sidewalks or on any public grounds in a menacing or terrorizing manner or apparent attitude of attack.
3. Any dog which is owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.
4. Notwithstanding the above, no dog may be considered a vicious dog if an injury or damage is sustained by a person who at the time of such injury or damage was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime. No dog may be considered vicious if an injury or damage was sustained by a domestic animal which at the time of such injury or damage was teasing, tormenting, abusing or assaulting the dog. No dog may be considered vicious if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

*Wild animal* means any animal that can normally be found in the wild state and is not ordinarily domesticated by man, whether raised in captivity or in the wild.

Sec. 3-2. Enforcement.

The civil and criminal provisions of this title shall be enforced by the division of animal control and the city police department.

Any animal control officer or police officer having probable cause that a person has violated a section of this title may, in lieu of obtaining a misdemeanor warrant for arrest of such suspect, issue to the person a written citation requiring the person to appear at a date and time in the municipal court to answer the charge or charges specified in the citation.

It shall be a violation of this title to interfere with an animal control officer or police control officer in the performance of his duties.

Sec. 3-3. Violations and penalties.

Any person violating any provision of this title shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00) or imprisonment in the county jail not to exceed ninety (90) days, or by both such fine and imprisonment, unless otherwise provided for herein. Each day's violation shall be deemed a separate offense.

Sec. 3-4. Cruelty, abuse, fighting.

No person shall beat, cruelly ill-treat, torment, overload, overwork or otherwise abuse an animal, or cause, instigate, promote or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans, unless otherwise permitted by law. The animal control officer shall

have the authority to take an abused animal into protective custody pending disposition of charges of cruelty or abuse against owner.

Sec. 3-5. Exposing to poisons.

No person shall expose any known poisonous substance, whether mixed with food or not, so that the same may be eaten by any animal; provided that, it shall not be unlawful for a person to expose on his own property common pest-control poison mixed with only vegetable substances.

Sec. 3-6. Cropping dog's ears, performing other surgical procedure.

No person except a licensed veterinarian shall crop the ears of any dog or perform any surgical procedures on animals.

Sec. 3-7. Leaving unattended animals inside motor vehicle.

It shall be unlawful to leave an animal unattended inside a motor vehicle when such action offers reasonable potential for harm to the animal. An animal control officer or any police officer shall have the authority to make such a determination of potential harm and shall have the authority to remove an animal from such a vehicle if force is not required to gain entry, If force is required to gain entry to a locked vehicle, such force shall only be used by a police officer according to the applicable police department policy.

Sec. 3-8. Operator of vehicle striking animal to report accident.

Any person who, as the operator of a motor vehicle, strikes a domestic animal shall at once report the accident to the police department, the division of animal control or to the humane society.

Sec. 3-9. Keeping of animals within city limits.

*Keeping animals near residences prohibited: exemption for dog and cats.* It shall be unlawful for any person to keep or maintain any fowl or any livestock animals (except as allowed by other specific provisions of this section), in any area zoned other than agricultural, within two hundred fifty (250) feet of any building within the corporate limits of the city used as a residence regardless of whether the residence is on the person's property or an adjacent property. Also, any such fowl or livestock kept or maintained beyond two hundred fifty (250) feet of any residence shall be held in a secure fence/cage system that does not allow for such animals to roam from their owner's property. The provisions of this section shall not apply to keeping and maintaining cats and dogs. In areas zoned agricultural, this requirement shall not apply to roaming livestock that are not exclusively confined within two hundred fifty (250) feet of a residence (i.e., animals that are confined within a larger fenced area that allows the animals to roam farther than two hundred fifty (250) feet from any residence while on their owner's property),

*Swine prohibited; exception for dealers.* It shall be unlawful for any person to raise or keep hogs and pigs within the corporate limits of the city except as permitted by the zoning ordinance; provided that this section shall not apply to dealers in hogs and pigs who are hereby permitted to maintain hog and pig pens in areas zoned for such; provided, however, that such pens shall *meet the* sanitary requirements of the state health department.

*Number restricted.* It shall be unlawful for any person to have in their possession or on their property more than five (5) dogs and/or cats in any combination that exceeds a total of five (5) such animals over the age of three (3) months in any area zoned other than agricultural.

In areas zoned agricultural, it shall be unlawful for any person to have in their possession or on their property more than ten (10) dogs and/or cats in any combination that exceeds a total of ten (10) such animals over the age of three (3) months.

Sec. 3-10. Molesting birds, bird nests.

It shall be unlawful for any person to kill, wound or injure in any manner whatsoever or to shoot with a gun, pistol, arrow or other deadly weapon or to set traps or spread nets or snare with the intent to catch or capture any birds of any kind whatsoever, within the corporate limits of the city. It shall also be unlawful for any person to break, tear down or destroy any bird's nest or the eggs or other contents of the nest. The provisions of this shall not apply to any testing performed by the state health department or other agency authorized to test birds and/or their habitats due to a specific public health concern. The provisions of this section shall not apply to the legal hunting of game fowl (as defined by the state) within the city limits.

Sec. 3-12. Livestock running at large or allowed on streets, sidewalks.

It shall be lawful for horses used by the police department to be allowed access to any streets and sidewalks as required for the performance of the specific duties of law enforcement. Also, animals associated with a parade permitted by the city shall be allowed access to the streets and areas designated by the city with such permission.

Sec. 3-13. Keeping of wild animals.

*For display or exhibition.* No person shall keep or permit to be kept on his premises, or in any roadside zoo or pet store, any wild animal for display or for exhibition purposes, whether gratuitously or for a fee. This subsection shall not be construed to apply to zoological parks, petting zoos, performing animal exhibitions or circuses,

*Enforcement.* The supervisor of animal control shall have the power to release, order the release or seize any wild animal being kept in violation of this section, federal law or state statute and shall notify the Mississippi Department of Wildlife.

Sec 3-14. Keeping of vicious animals or vicious dogs; penalty.

A vicious dog shall be securely confined indoors or confined in a securely enclosed and childproofed locked pen or structure upon the premises of the person owning or harboring the same. Such pen or structure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded in the ground no less than two (2) feet.

No person owning or harboring or having the care of a vicious dog shall suffer or permit such, dog to go beyond the premises of such person unless such dog is securely leashed and muzzled, except that a vicious dog shall not be required to be muzzled when shown either in a sanctioned American Kennel Club show or upon prior approval of the animal control supervisor. Such dog may not be leashed to

inanimate objects, e.g trees, buildings, etc., and the muzzle must be sufficient to prevent such dog from biting persons or other animals.

No vicious dog may be kept on a porch or patio or any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or doors are the only obstacle preventing the dog from exiting the structure.

All owners, keepers or harborers of vicious dogs within the city shall display in a prominent place on their premises a sign easily readable by the public using such words as "Beware of Dog." In addition, a similar sign shall be posted on the kennel or pen of such animal.

The owner or harbinger of any dog which according to the records of the animal control division seriously injures a person without provocation or which has aggressively killed a domestic animal shall be required to provide public liability insurance in a single incident amount of one hundred thousand dollars (\$100,000.00) for bodily injury to or death of any person or persons or for damage to property resulting from the ownership, keeping or *maintenance* of such dog. Such insurance shall contain a provision that the same may not be cancelled until fifteen (15) days notice of cancellation has *been* given to the animal control division; this extends to owners moving outside the city as they would be required to notify the animal control division of the date on which they are moving.

Serious injury means any physical injury resulting in two (2) or more sutures or hospitalization.

Every vicious animal shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner. (g) The persons having the enforcement duty under this title may enter the premises where a vicious dog or animal is kept for the purpose of inspection of the premises to ascertain whether such complies with the provisions of this title. Such inspection shall be made only after twenty-four (24) hours notice to the occupant of the premises and shall require that a police officer be present.

This section shall not apply to dogs kept by law enforcement agencies.

In addition to any other penalty the municipal court may impose upon a person convicted of a violation of this section, the court may impose a fine of five hundred dollars (\$500.00) for violation of this section or any part thereof.

#### Sec. 3-15. Responsibility of owner generally.

- a) No owner shall fail to:
  1. Exercise proper care and control of his animals including but not limited to dogs or cats;
  2. Prevent them from becoming a public nuisance, as defined in section 3-1, or private nuisance; or
  3. Comply with the standards set out next below and all other provisions of this title.
- b) It shall be unlawful for any lot or stall or stable or other place where animals are kept to be in an unclean, filthy or unsanitary condition. All lots, stalls, stables, pens, yards and other places where cattle, horses, mules, hogs, dogs, cats or other animals are kept for any purpose whatsoever, anywhere in the city, shall be kept clean and wholesome by removal of all offensive

matter and by suitable cleansing and disinfecting as often as may be necessary, which care is hereby required and made the duty of every person having, owning or controlling such places.

- c) The owner of every animal, including but not limited to cats and dogs, shall remove any fecal matter deposited by such animals on public walks, streets, recreation areas or private property of another. It shall be unlawful for the owner of any property to allow unsanitary or malodorous conditions to develop on his property due to the keeping, maintaining, owning or harboring of animals- Yards, pens, premises and animals shall be kept free of insect infestations.
- d) Animal pens or enclosures shall be large enough to provide reasonable freedom of movement to the animals contained therein.
- e) No owner of an animal shall abandon such animal or fail to maintain such animal in a healthy condition or to provide appropriate veterinary treatment immediately if ill.
- f) No owner shall fail to provide his animals with sufficient good and wholesome food and water, proper shelter and protection from the weather and to generally provide humane care and treatment.
- g) If probable cause exists to believe that any animal or animals, including but not limited to dogs and cats, are kept under such conditions as to constitute a nuisance in violation of this title, a petition for abatement shall be filed in the municipal court specifically noting the offending conditions, a copy of which shall be served on the owner or harbinger of such animals, with a notice to appear in the court at a specific time and place to show cause, if any, why an order of abatement should not be entered against him. If evidence establishes that the offending conditions or any combination of them are present, the court shall order the same abated within fifteen (15) days and assess court costs against the party responsible for the conditions. In lieu of a petition for abatement, the animal control division may issue a written warning of offending nuisance conditions. • If a previous abatement order has been entered against a person within twelve (12) months of a second charge of violation of this section, and the same or similar offending nuisance conditions are found on the premises cited, then a mandatory fine shall be assessed against the person in the amount of one hundred dollars (\$100.00) and the condition again ordered to be abated. Upon a third offense, the person responsible shall suffer a minimum mandatory fine of two hundred fifty dollars (\$250.00) if convicted of failing to meet the standards of responsibility established by this section. Neither mandatory fine shall be suspended.

Sec. 3-16. Vaccination of dogs, cats against rabies,

*(a) Required.* Any person owning, keeping, harboring or having custody of any dog or cat three (3) months of age or older within the city shall have that animal vaccinated against rabies with the approved dosage of an approved antirabic virus (vaccine) properly administered by a person legally authorized to do so; it shall be unlawful for any person to own or have in his possession any dog or cat not so vaccinated. Every dog or cat must be vaccinated in accordance with the Compendium of Animal Rabies Vaccines as prepared by the National Association of State Public Health Veterinarians, Inc.

*Tug bearing vaccinailun serial numbers to tie wont* / he owner of any dog or cat shall see that the animal wears a securely bradded metal tag with the serial number of the vaccination and the year in which the animal was inoculated stamped thereon and shall see that the collar and tag are worn by the animal at all times.

*Penalties for violations.* The failure to comply with this section shall constitute a misdemeanor, and the offender shall, on conviction thereof, be fined twenty-five dollars (\$25.00) for the first offense, fifty dollars (\$50.00) for the second offense and seventy-five dollars (\$75.00) for the third offense. It shall be the duty of the division of animal control to enforce this section.

Sec. 3-17. Running at large.

*Prohibited.* It shall be unlawful for the owner of any animal to permit it to run at large within the corporate limits of the city,

*Impoundment of animals at large.* Animals running at large may be impounded as provided elsewhere herein.

Sec. 3-18. Giving away as prizes, inducements to trade, etc.

No person shall give away any live mammal, reptile or bird as a prize for, or as an inducement to enter, any contest, game or other competition, or as an inducement to enter a place of amusement, or offer such as an incentive to enter into any business or business agreement whereby the offer was for the purpose of attracting trade. Exceptions to this section include pet stores working in conjunction with the animal control division, humane society or other organizations seeking to legitimately adopt animals that do not have owners to a new home. Fish are specifically excluded from the provisions of this section.

Sec. 3-20. Performing-animal exhibitions or circuses,

(a) No performing-animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical or manual devices in a manner which will cause, or is likely to cause, physical injury or suffering.

Sec. 3-21. Elimination of animals, when authorized.

- a) *Vicious animals or feral or vicious dogs.* When an animal is determined by the supervisor of animal control to be a vicious animal or a feral or vicious dog, that animal may be destroyed by the supervisor of animal control or his designee, provided two (2) of the following requirements are met:
  1. The animal is running at large or not properly confined or muzzled as described herein.
  2. There is no vaccination tag around the animal's neck.
  3. Attempts to peacefully capture the animal have been made and proven unsuccessful.
- b) Any dog that aggressively attacks and causes severe injury or death of any humans shall be immediately confiscated by animal control, placed in quarantine for ten. (10) days, and thereafter destroyed *in* an expeditious and humane manner. "Severe injury" means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.
- c) *Incurably injured or diseased animals, etc.* It shall be the duty of the police and/or a duly authorized animal control officer to see that any animal suffering from an incurable injury or disease is humanely euthanized with an injection at the animal shelter under the direction of a qualified individual (as defined by the state). In such cases of humane euthanization, reasonable efforts not to exceed forty-eight (48) hours shall first be made to locate the owner of any such

injured or diseased animal unless the animal cannot be made comfortable for that period. If the animal is in a continual state of suffering, the euthanization shall be performed immediately. Furthermore, it shall be the sole duty of the police (on behalf of the city) as the sole effective means of controlling a public nuisance or health hazard to mercifully end the life of an animal by the discharging of a firearm. An individual may discharge a legal firearm to mercifully end the life of an animal perceived as a threat to them or others (when time will not allow for the individual to contact the police to handle the matter); after such incident, the individual shall be required to contact the police to report the incident and the incident will be subject to investigation by the police as warranted. In the event of an injured or diseased animal, no individual may discharge a firearm to mercifully end the life of the animal in question but rather, they shall contact the police to handle the matter as stated above.

Sec. 3-22. Impoundment generally.

*Authority to seize; confinement period.* An unrestrained dog or an animal constituting a public nuisance shall be taken by the police or animal control officers and impounded in an enclosure or animal shelter kept for that purpose, to be provided and maintained by the city, and there confined in a humane manner. Such an animal shall be kept for at least five (5) days unless sooner claimed by the owner; impounded dogs and cats not suffering from an injury or infectious disease shall be kept for not less than five (5) working days.

Any vicious dog shall be immediately seized by the division of animal control if:

1. The owner does not secure the liability insurance coverage required under section 314(e);
2. The owner does not maintain the dog in a proper enclosure; or
3. The owner willfully or negligently permit, the dog outside the dwelling of the of the owner or outside the proper enclosure and does not have the dog muzzled and under personal physical restraint of the owner.

*Notice to owner; redemption.* If by a tag or other means the owner of an impounded animal can be readily identified, the animal control division shall, upon impoundment, notify the owner by telephone or mail. Within five (5) days, the rightful owner of *any* animal held under this section may obtain said animal upon the payment of an impoundment fee; if the animal is a pet required to be properly vaccinated, licensed and tagged, the owner may obtain the animal upon the payment of an impoundment fee as hereinafter provided. If an unvaccinated pet is claimed by the owner, the owner must make arrangements for the vaccination of the animal satisfactory to the animal control director and then pay the relevant fee. An owner reclaiming an impounded animal (or quarantined animal as noted below) shall pay a fee as follows:

For cats and dogs	\$20.00
plus, for each day of impoundment . . .	\$5.00

*Disposition if not reclaimed by owner; waiver of waiting period* Any animal not reclaimed by its owner within five (5) days shall become the property of the city and shall be placed in process for adoption to a suitable home for a fee established by the city for a cat or dog or humanely euthanized with an injection under conditions deemed necessary by the animal control director and/or the environmental services director. For other unclaimed animals deemed pets, such will be sent to appropriate rescue services or

shelters that meet the specific needs of the animal; for other unclaimed animals considered livestock, such will be sold at a lawfully constituted public livestock auction in satisfaction of all fees and expenses, with surplus revenue transferred to the general fund of the city. All adopted cats and dogs shall *be* provided vaccinations prior to adoption as appropriate and shall be altered as appropriate to their gender and age prior to adoption; any such animals not suitable in age to be altered shall have arrangements made by the new owner to have this procedure performed when the animal is of age, all to the satisfaction of the animal control director,

The five-day waiting period shall be waived for a vicious or feral dog, or for any animal suffering from an infectious disease, Pursuant to MCA 1972, 97-41-3, an injured or neglected animal may be humanely euthanized without any waiting period.

*Additional proceedings against owner authorized* The owner of an impounded animal may also be proceeded against for any violation of this title.

Sec. 3-24. Impoundment of animals attacking, injuring persons; destruction of rabid animals.

If impounded by the city, and such animal does not have rabies, the animal may be taken possession of by the owner at the end of the quarantine period as designated by a qualified veterinarian, upon payment of the designated fee,

Sec. 3-25. Relinquishment of cats or dogs.

If a resident voluntarily relinquishes a cat or dog to the animal shelter, there will be a fee. The cat or dog shall become the property of the city and shall be placed for adoption in a suitable home for a fee or humanely euthanized with an injection under conditions deemed necessary by the animal control director and/or the environmental services director. No animals other than cats or dogs shall be accepted for relinquishment. All fees noted shall be as determined by the mayor and board of aldermen.

Sec. 3-25. Dead animal removal.

The city animal control division in conjunction with the sanitation component of the city public works division will provide a dead animal pickup service from any residence within the corporate limits of the city. The city has a minimum charge of twenty-five dollars (\$25.00) per animal paid in advance (such revenue to be transferred to the general fund). The public works director and/or the environmental services director shall have the authority to set necessary rules and guidelines to assure that the safety, health and welfare of the city and its employees are protected.

Sec. 3-27. EFFECTIVE DATE.

This ordinance shall take effect upon the expiration of thirty (30) days from its publication. Passed and approved this, the 19<sup>th</sup> day of June, 2007.