

**ORDINANCE NO. 115-2001**

**AN ORDINANCE REGULATING THE KEEPING OF ANIMALS WITHIN THE CORPORATE LIMITS OF THE CITY OF SPANISH FORT, ALABAMA**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SPANISH FORT, ALABAMA, AS FOLLOWS:**

**SECTION 1. Office of Animal Control Officer Created.**

(a) There is hereby created within the City of Spanish Fort, Alabama, the position of Animal Control Officer. The Animal Control Officer shall be appointed by the City Council of the City of Spanish Fort, and the Chief of Police or any member of the Spanish Fort Police Department may be appointed as Animal Control Officer, in addition to their other duties. The Animal Control Officer shall supervise the enforcement of this Ordinance, and any additional enforcement officers appointed by the City Council shall hereafter be known as Animal Control Officers. Any officer of the Spanish Fort Police Department shall have authority to enforce the provisions of this Ordinance.

(b) It shall be unlawful for any person to knowingly and willfully oppose or resist the Animal Control Officer or any other enforcement officers in executing or attempting to execute any lawful process or in the discharge of any regular duty, or in any way to interfere with, hinder or prevent any such officer from discharging his or her duty.

**SECTION 2. Definitions.**

For the purpose of this Ordinance, the following words and phrases shall have the meaning respectively ascribed to them by this Section:

(a) CITY OF SPANISH FORT ANIMAL SHELTER OR CITY ANIMAL SHELTER. The place designated or used by the City of Spanish Fort for the place of confinement of animals held under the authority of this Ordinance, which may include, but is not limited to, any county animal shelter, any animal shelter maintained by another municipality or any privately operated animal shelter or veterinarian clinic.

(b) ANIMAL CONTROL OFFICER. All enforcement officers assigned by the City of Spanish Fort to enforce this Ordinance.

(c) ATLARGE. Any animal, other than a domestic house cat, shall be “at large” when it is off the property of its owner or person in charge of such animal and not carried by said person, kept in an effective enclosure or controlled 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 a person or animal. Provided, however, that a dog 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 and in the immediate presence and under voice control of its owner or a competent handler, and provided further, that a dog which is not vicious or presumed to be vicious shall not be considered “at large” while

upon the premises of its owner or a person in charge of the animal. A dog which is off the premises of its owner or a person in charge of the animal and more than 30 feet from the actual location of its handler shall not be considered in the immediate presence of and under voice control of said handler.

(d) BITTEN. Shall mean seized with the 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 as determined by a licensed physician.

(e) DOG. Shall mean and include all members of the domestic canine family.

(f) DOMESTICATED ANIMALS. Any such animals that are accustomed to live in or about the habitation of humans, including, but not limited to, cows, fowl, horses, sheep, goats, swine, livestock or any other animal kept as a pet or otherwise.

(g) CAT. Shall mean the domestic house cat.

(h) STRAY ANIMAL. Any animal running at large, the owner or person in charge of which is unknown.

(i) WILD ANIMAL. Any animal of a species that in their natural life or habitat are wild, dangerous or ferocious and, though they may be trained and domesticated by the owner, will remain dangerous to the public at large.

### **SECTION 3. Collar and Tag Requirement.**

Every dog over three months of age kept within the corporate limits of the City of Spanish Fort shall at all times wear a collar to which shall be attached an identification tag identifying the owner's name, address and telephone number where the owner may be contacted.

### **SECTION 4. Seizure of Dogs Running at Large.**

(a) It shall be unlawful for the owner or any other person having charge or control of a dog to allow it to be or run at large within the City. It shall be the duty of the Animal Control Officer when so notified, or whenever the Animal Control Officer observes any dog running at large, to immediately cause such dog to be seized and confined in the City Animal Shelter and to make a reasonable effort to notify the owner if the dog has a tag identifying the name, address and telephone number of the owner. Any dog found unlawfully to be at large within the City is hereby declared a nuisance and shall be seized and confined by the Animal Control Officer and cared for in a humane manner for a period of not less than seven (7) days.

(b) In addition to, or in lieu of, confining a dog found unlawfully at large when the owner or person in charge of said dog is known to the Animal Control Officer, the Animal Control Officer may return the dog to the owner or person in charge and issue a citation for violation of this Ordinance.

(c) Immediately upon confinement of dogs, the Animal Control Officer shall make reasonable effort to ascertain the identity of and notify the owner or person in charge of such dogs of their confinement and of the conditions under which they may regain possession of such animal.

## **SECTION 5. Keeping of Vicious Dogs.**

(a) VICIOUS OR DANGEROUS DOG DEFINED. Any dog which bites, scratches, fiercely attacks or attempts to bite, scratch or fiercely attack any person or other animal, or which chases or runs after any person or vehicle in which or on which a person is riding, shall be deemed to be vicious or dangerous.

(b) CONFINEMENT REQUIRED. It shall be unlawful for the owner or other person in charge thereof to keep a vicious dog in the City, unless such dog is securely confined, bound or adequately leashed in such a manner as to prevent such dog from biting or attacking a person or other animal.

(c) ENCLOSURES FOR VICIOUS DOGS-POSTING OF PREMISES. Whenever a vicious dog is permitted to run at large within a wall, fence or other enclosure, it shall be the duty of the owner or person in charge of such dog to give public notice or warning that such dog is at large within such enclosure by conspicuously posting a written or printed notice at every unlocked entrance to such enclosure.

(d) AUTHORITY OF ANIMAL CONTROL OFFICER WHEN ENCLOSURE DEEMED INADEQUATE. Whenever a vicious dog is not properly and securely confined, the Animal Control Officer may order confinement of the dog until the owner or other person in charge of such dog provides an enclosure which, in the opinion of the Animal Control Officer, is adequate. Until an enclosure is provided which the Animal Control Officer deems adequate, the Animal Control Officer may order confinement of such dog with such person or organization as the Animal Control Officer shall determine. The cost of feeding and caring for the dog shall be paid by the owner. If the owner of such dog fails to provide an enclosure which the Animal Control Officer deems to be adequate within thirty days, such dog may be disposed of by extermination or as otherwise directed by the Animal Control Officer.

(e) REPORTING OF VICIOUS DOGS BY SWORN STATEMENT, PROCEDURE UPON FIRST INDICATION OF VICIOUSNESS. When any person claims that a dog is vicious, he or she shall make a sworn statement before an officer authorized to administer oaths in the City, and the sworn statement shall set forth the reasons for believing the dog to be vicious. The sworn statement shall be delivered to the Animal Control Officer. Upon receipt of such sworn statement, the Animal Control Officer shall immediately make an investigation. If, in the Animal Control Officer's opinion, the dog is vicious, and if he or she further finds that the incident reported is the first incident or indication of viciousness on the part of the dog, the Animal Control Officer shall order such dog confined. If the owner of the dog does not immediately provide a proper enclosure, the Animal Control Officer shall confine such dog with such person or organization as the Animal Control Officer shall determine for a period not exceeding thirty days. If the owner or person in charge of the dog does not provide an enclosure within thirty days which meets the approval of the Animal Control Officer and pay the expense of confinement, the dog may be disposed of by extermination or as otherwise directed by the Animal Control Officer.

(f) PROCEDURE UPON PRIOR INDICATION OF VICIOUSNESS BUT NO PRIOR ACTION TAKEN BY ANIMAL CONTROL OFFICER. If upon receipt of the sworn statement provided in the preceding section the Animal Control Officer determines that the dog is vicious, and if he or she further finds that the dog has on previous occasions given evidence of its viciousness, but that no prior order has been made by him or her in reference to such dog, the Animal Control Officer may, in his or her judgment, either order the dog confined as provided in the preceding section, or he or she may file a judicial proceeding before the municipal court or the court authorized to hear municipal cases to determine whether or not such dog should be exterminated.

(g) PROCEDURE WHEN THERE HAS BEEN PRIOR INDICATION OF VICIOUSNESS AND ANIMAL CONTROL OFFICER HAS ACTED. If upon receipt of the sworn statement provided in Section 5, the Animal Control Officer shall find such dog to be vicious, and if he or she further finds that he or she had, prior to the time of the receipt of such sworn statement, ordered the dog to be confined, the Animal Control Officer shall order such dog confined for three days, and at the end of such time shall have the dog exterminated, unless the owner appeals to the municipal court or the court authorized to hear municipal cases, in which case the matter shall be determined by the judge.

(h) APPEAL OF FINDING OF VICIOUSNESS BY ANIMAL CONTROL OFFICER. In the event the Animal Control Officer determines that a dog is vicious or dangerous and orders the dog to be confined, the owner or other person in charge of such dog may appeal the finding and order to the municipal court or the court authorized to hear municipal cases by filing a notice of appeal with the court clerk and the City Clerk within 5 days of the date of the order. The owner shall be responsible for all costs of the appeal and expenses of confinement during the pendency of the appeal or otherwise.

(i) REMEDIES OF DIVISION TO BE CUMULATIVE. The remedies provided in this division are cumulative and shall in no way affect any other remedies provided by law and shall be in addition to the criminal prosecution of the owner or keeper of any vicious dog.

## **SECTION 6. Animals Running at Large-Prohibited.**

It shall be unlawful for the owner or any other person having charge or control of any animal other than a dog or cat, including, but not limited to, livestock, domesticated animals or any other animal kept by said person, to allow said animal to be or run at large within the City.

## **SECTION 7. Noisy Animals.**

(a) It shall be unlawful and a nuisance for any person to keep on a residential lot or premises any animal or group of animals, known to said person to habitually, continuously, or intermittently to make or emit sound or noises of such volume and nature as to unreasonably interfere with or disturb the peace, quiet, comfort and repose of persons of ordinary sensibilities within the neighborhood in the reasonable use and enjoyment of adjacent property.

(b) It shall be unlawful and a nuisance for any person to keep on any tract, lot or premises within the City any animal or group of animals whether the same is housed in a corral, kennel, building or other structure(s) under such circumstances that the sounds or noises emitted by said animals are of such volume and nature as unreasonably to interfere with or disturb the peace, quiet, comfort and repose of persons of ordinary sensibilities in the reasonable use and enjoyment of any adjacent property used for residential purposes.

(c) Any owner or person in charge violating this Section shall be guilty of maintaining a nuisance. Provided, however, that no prosecution shall be commenced and no arrest made pursuant to this Section, except upon affidavit made before and warrant issued by a Magistrate.

#### **SECTION 8. Right of Entry.**

The Animal Control Officer of the City of Spanish Fort shall have the right to enter upon any property, except a private dwelling house, for the purpose of capturing any animal in violation of the provisions of this Ordinance subject to state law.

#### **SECTION 9. Procedure for Redemption.**

The owner of any animal may, within seven (7) days after the animal is impounded, redeem the animal by paying to the City of Spanish Fort Animal Shelter the sum of twenty-five (\$25.00) dollars for the impounding and the actual cost incurred by the City of Spanish Fort Animal Shelter, but not less than ten (\$10.00) dollars per day, for the keep of said animal, plus any other fees charged by the shelter. In the case of a dog or cat, evidence must be presented that said dog or cat has been inoculated against rabies prior to release.

#### **SECTION 10. Disposition of Unredeemed Dogs or Cats.**

(a) In the event any impounded animal is not redeemed within seven (7) days after the same is impounded, the Animal Control Officer may, at such Officer's discretion, place said animal in a home or adopt the animal out to a third party for expenses incurred, turn said animal over to the Humane Society for adoption or destroy said animal in a humane manner.

(b) After a dog or cat has been confined for the period of time as provided in this Section, and if the owner or person entitled to possession fails to make application for the release of such animal as herein provided, or fails to pay the charges as provided this Ordinance, or fails to pay for the proper inoculation for rabies, or if such satisfactory evidence as required by this Ordinance is not provided, then such animal is hereby declared a nuisance and a danger to the health, safety and welfare of the City, and the Animal Control Officer shall cause such animal to be humanely destroyed as herein provided. However, any dog or cat under two (2) weeks old or whose eyes have not opened since birth may be humanely disposed of immediately upon being impounded where it has been found in violation of the Animal Control Ordinance.

(c) Any Animal Control Officer authorized by the Chief of Police to carry a firearm assisting in impounding any animal shall have the authority to shoot

and kill such animal, if in attempting to capture the same or in otherwise keeping the same, it shall become an immediate hazard to his or her safety or the safety of persons or animals in the immediate vicinity.

(d) Any confined animal that is injured or diseased will, as an act of mercy, be humanely destroyed immediately if it is determined by the Animal Control Officer or a veterinarian that such destruction is necessary to prevent unnecessary suffering, to prevent the spread of disease or because the animal is incurable. A written finding to this effect shall be signed by those inspecting the animal and such written document shall be retained by the City for a period of one (1) year.

(e) The Animal Control Officer when required to dispose of animals shall do so by such process as is recognized by veterinary science as being a humane manner in which to destroy animals.

(f) Wild or non-domesticated animals, when circumstances demand, may be destroyed by the Animal Control Officer or at his or her direction for public safety, to prevent the spread of disease and as an act of mercy. Such authority shall come from the Chief of Police for animal control personnel to carry out the provisions of this Section.

#### **SECTION 11. Rabies Vaccination Required - Penalty.**

(a) It shall be unlawful for any owner or person in charge to keep any dog or cat more than three (3) months of age within the City which has not been vaccinated against rabies within the preceding twelve (12) months.

(b) Any owner or person in charge in violation thereof shall be subject to a penalty not to exceed an amount equal to twice the State-approved charge for inoculation, to be imposed by the Animal Control Officer or his authorized representative, in addition to the fee prescribed for the inoculation.

(c) In order to be sufficient under this Ordinance, the vaccination of a dog or cat shall be accomplished by a licensed veterinarian.

(d) The serially numbered rabies tag at the time of inoculation shall at all times be attached to a collar or harness worn by the dog for which the tag is issued. However, said tag need not be attached during supervised obedience training classes or animal shows.

#### **SECTION 12. Confinement of Dogs or Cats in Heat.**

Every female dog or cat in heat shall be kept confined by the owner or person in charge. At any time that a female dog or cat in heat is found to be causing a disturbance of cats and dogs on adjoining premises, it shall be the duty of the owner or person in charge of said dog or cat to immediately confine said dog or cat in a manner so as to avoid such disturbance.

#### **SECTION 13. Duty to Restrain or Control.**

(a) Dogs - It shall be the duty of every owner or person in charge of a dog to keep said animal under effective restraint or control inside the City limits,

whether or not said dog is upon or away from his or her premises. It shall be unlawful for the owner or person in charge of any dog to fail to keep said animal under effective restraint or control. Proof that a dog was not properly restrained or controlled while off the premises of the owner or person in charge shall be prima facie evidence of a violation. Negligent failure to provide or maintain effective 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 unlawful for the owner or any person having custody or control of any cat known to habitually cause destruction or damage to the property of another to allow said cat to run at large within the City. Provided, however, that no prosecution shall be commenced and no arrest made pursuant to paragraph (b) of this Section except upon affidavit made before and warrant issued by a Magistrate.

#### **SECTION 14. Stray Dogs May be Taken Up.**

Any person in the City finding any dog running at large about his premises or residence, or the residence of which he or she in charge, may have such animal confined by the Animal Control Officer as an at large animal or stray.

#### **SECTION 15. Humane Traps.**

(a) The Animal Control Officer is hereby authorized, in order to apprehend animals in violation of this Ordinance, to use traps designed humanely to capture said animals by placing the same upon 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.

(b) It shall be the duty of the Animal Control Officer to check such traps daily and remove captured animals therefrom to the City Animal Shelter where they shall be disposed of as otherwise provided herein.

(c) It shall be unlawful for any person to molest or tamper with any such trap or to remove any animal captured in any such trap or to interfere with the Animal Control Officer in setting or servicing any such trap.

(d) Any owner or person in charge of any dog captured in a humane trap which is off the premises of the owner or person in charge thereof shall be prima facie presumed to have allowed, suffered or permitted such animal to be or to run at large. At any time a dog is captured by use of such trap, and the owner or person in charge is known or becomes known to the Animal Control Officer, such owner or person in charge shall be given a citation to appear in court.

#### **SECTION 16. Cruelty to Animals.**

Any person who (a) overrides, overdrives, overloads, drives when overloaded, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or cruelly kills any animal; and (b) any person who having the charge or custody of such animal, either as owner or otherwise, inflicts unnecessary cruelty upon same, or fails to provide the same with proper food, drink, or protection from the

weather, or cruelly drives or rides or allows to be ridden or overdriven when unfit for labor; and (c) any person who having the charge or custody of any animal known to him or her to require medical treatment or care in order to prevent unjustifiable physical pain, suffering, or death, who having such knowledge fails to provide proper treatment and care, or in the alternative, to cause said animal to be humanely disposed of; and (d) any person who unlawfully or maliciously kills, disables, disfigures or injures any animal, without good excuse, shall be guilty of a misdemeanor.

**SECTION 17. Duty of Owner to Remove Deposited Feces.**

It shall be the duty of the owner or person in charge of any dog or cat which has been allowed by that person to be at large to remove and dispose of any feces deposited by the animal upon any residential lot of another occupied for human habitation, or upon any right-of-way adjacent thereto, upon demand from the owner or occupant thereof, or upon demand of the Animal Control Officer.

**SECTION 18. Owner's Duty to Remove Scattered Garbage.**

It shall be the duty of the owner or person in charge of any dog or cat which has been allowed or suffered by that person to run at large to pick up and remove to a secure authorized container any garbage or refuse which the animal has caused to be overturned, spilled or scattered upon any residential lot occupied for human habitation, or upon any right-of-way adjacent thereto, upon demand from the owner or occupant thereof, or upon demand of the Animal Control Officer, and it shall be unlawful for any such person to fail or refuse to do so; provided, however, that no prosecution shall be commenced and no arrest made pursuant to this section except upon affidavit made before and warrant issued by a Magistrate.

**SECTION 19. Citations.**

When any animal is found by the Animal Control Officer to be in violation of any provision of this Ordinance, and the person or persons responsible become known to the Animal Control Officer, he may issue a citation to the owner or person in charge for said violation directing him to appear in court at a time and date stated therein to answer to charges of violations of this Ordinance, which said charges shall be stated in said citation.

**SECTION 20. Disposition of Fees.**

All monies collected as provided for in this Ordinance shall be turned over and delivered forthwith to the City Clerk.

**SECTION 21. Minimum Penalties.**

Any person violating any provision of this Ordinance shall be punished by a fine of not less than \$10.00 nor more than \$500.00, and said person shall pay all costs incurred by the City in capturing or confining an animal found to be in violation of this Ordinance. In addition to such other punishment as may be provided by the Court, the following minimum fines and penalties shall apply:

<u>Description of Offense</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>
Allowing a dog to run at large	\$ 15.00	\$ 25.00	\$ 50.00
Allowing a dog to be kept without a proper identification tag affixed	\$ 10.00	\$ 20.00	\$ 30.00
Not properly confining a female dog or cat in heat	\$ 25.00	\$ 50.00	\$100.00
Cruelty to animals Confinement	\$200.00	\$500.00	10days
Allowing an animal known or presumed to be vicious to be at large	\$100.00	\$200.00	\$500.00

**SECTION 22. Animals Suspected of Having Rabies Declared Nuisances; Impoundment of Same.**

Any animal suspected of infection with rabies is hereby declared to be a public nuisance and a danger to the health and safety of the community. The Animal Control Officer may take up and confine any such animal.

**SECTION 23. Severability Clause.**

If any part, section or subdivision of this Ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this Ordinance, which shall continue in full force and effect notwithstanding such holding.

**SECTION 24. Repealer Clause.**

Any ordinance heretofore adopted by the City Council of the City of Spanish Fort, Alabama, which is in conflict with this Ordinance is hereby repealed to the extent of such conflict.

**SECTION 25. Effective Date.**

This Ordinance shall become effective upon its adoption.

ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2001.

---

GREGORY A. KUHLMANN  
Mayor

ATTEST:

Mary Lynn Williams  
City Clerk