



**REGULAR MEETING OF FLORENCE CITY COUNCIL
MONDAY, JUNE 12, 2023 – 1:00 P.M.
CITY CENTER – COUNCIL CHAMBERS
324 WEST EVANS STREET
FLORENCE, SOUTH CAROLINA**

ADDENDUM TO THE AGENDA

VII. INTRODUCTION OF ORDINANCES

e. Bill No. 2023-25

An Ordinance to repeal and replace portions of Sections 3-2, 3-7, and 3-11 of the Code of Ordinances of the City of Florence entitled “Definitions”, “Public Nuisance”, “Dangerous/Vicious Animal Enforcement”, and other matters relating thereto.

**** These items may be added to the June 12, 2023 City Council agenda by a two-thirds vote of the members present and voting.**

FLORENCE CITY COUNCIL MEETING

DATE: June 12, 2023
AGENDA ITEM: Ordinance
DEPARTMENT/DIVISION: City Council

I. ISSUE UNDER CONSIDERATION:

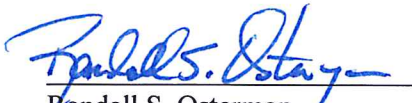
An Ordinance to repeal and replace portions of Sections 3-2, 3-7, and 3-11 of the Code of Ordinances of the City of Florence entitled “Definitions”, “Public Nuisance”, “Dangerous/Vicious Animal Enforcement”, and other matters related thereto.

II. POINTS TO CONSIDER:

1. The City of Florence has persistent issues with the breeding of dogs for the purpose of fighting, who frequently roam public spaces.
2. The City wishes to repeal and replace certain sections of the City of Florence Code of Ordinances in order to better regulate and control packs of dogs from posing a danger to the residents of the City.

III. ATTACHMENTS:

1. Proposed Ordinance



Randall S. Osterman
City Manager

ORDINANCE NO. 2023 - _____

AN ORDINANCE TO REPEAL AND REPLACE PORTIONS OF SECTIONS 3-2, 3-7, AND 3-11 OF THE CODE OF ORDINANCES OF THE CITY OF FLORENCE ENTITLED “DEFINITIONS”, “PUBLIC NUISANCE”, “DANGEROUS/VICIOUS ANIMAL ENFORCEMENT”, AND OTHER MATTERS RELATING THERETO.

WHEREAS, the City of Florence (the “City”) has persistent issues with the breeding of dogs for the purpose of fighting; and

WHEREAS, dogs bred for the purpose of fighting have frequently escaped their owners’ control and formed independent packs that roam public spaces; and

WHEREAS, the City Council of the City (“City Council”) enacted an ordinance now codified in the Code of Ordinances of the City (the “Code”) as Sec. 3-2 defining a “Dangerous/vicious animal”; and

WHEREAS, City Council desires to repeal and replace the definition of “Dangerous/vicious animal” in Sec. 3-2 in order better to regulate and control packs of dogs from posing a danger to the residents of the City; and

WHEREAS, City Council desires to repeal and replace Sec. 3-7 in order better to define “public nuisance” and regulate and control “dangerous/vicious animal” from posing a danger to the residents of the City;

WHEREAS, City Council enacted an ordinance now codified in the Code in Sec. 3-11 (c) which specifically addresses dangerous/vicious animal enforcement; and

WHEREAS, City Council desires to repeal and replace Sec. 3-11 (c) and (d) in order better to regulate and control packs of dogs from posing a danger to the residents of the City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Florence in meeting duly assembled that:

- a. The definition of “Dangerous/vicious animal” in section 3-2 of the Code is hereby repealed and replaced with the definition of “Dangerous animal” on the attached Exhibit A.
- b. Code Section 3-7 is hereby repealed and replaced with 3-7 on the attached Exhibit B.
- c. Code Section 3-11 (c) and (d) are hereby repealed and replaced with 3-11(c-h) on the attached Exhibit C.

d. This Ordinance shall become effective upon its approval and adoption by the City Council of the City of Florence.

ADOPTED this __ day of _____, 2023

Approved as to form:

BENJAMIN T. ZEIGLER
CITY ATTORNEY

TERESA MYERS ERVIN
MAYOR

ATTEST:

CASEY MOORE
MUNICIPAL CLERK

EXHIBIT A

Sec. 3-2. – Definitions.

Dangerous animal: Any animal of the canine, feline, or wild animal family:

- (1) Which the owner knows or reasonably should know (because of prior complaints, training, or attacks) has a propensity, tendency, or disposition to attack unprovoked resulting in bodily injury to a human being or another domestic animal or livestock in a place other than where the animal is confined; or
- (2) Which makes an unprovoked attack that causes bodily injury to a human being or domestic animal and the attack occurs in a place other than the place where the animal is confined. For the purposes of this section, “unprovoked” shall mean the victim who conducted themselves peacefully and lawfully was bitten, approached, or chased in a menacing fashion, or attacked without provocation of the animal; or
- (3) Which engages in pack-like behavior such as roaming unleashed and non-muzzled in a group consisting of three (3) or more animals.
- (4) Which is owned or harbored primarily or in part for the purpose of fighting or which is trained for fighting.
- (5) Which has, when Unprovoked, chased or approached a person on the streets, sidewalks, or any public place or property in a menacing fashion or reasonably apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and investigated by the ACO.
- (6) "dangerous animal" does not include:
 - a. An animal used exclusively for agricultural purposes; or
 - b. An animal which attacks a person who is trespassing or who appears to be trespassing. A trespasser is a person who is not lawfully upon the premises of the owner.
 - c. An animal that is leashed, harnessed, or otherwise under the direct control of a person as a service animal as demonstrated to the satisfaction of the ACO and/or is protecting its owner as to the satisfaction of the ACO.

EXHIBIT B

Sec. 3-7. – Public nuisance.

- (a) Actions of any animal, including cats, dogs, or other nonregulated animal or fowl, constitute a nuisance when an animal disturbs the rights of, threatens the safety of, or damages a member of the general public, or interferes with ordinary use and enjoyment of their property. No person shall own, keep, possess, or maintain an animal in such a manner so as to constitute a public nuisance. By way of example, and not of limitation, the following acts or actions by an owner or possessor of any animal are hereby declared to be a public nuisance and are, therefore, unlawful:
- (1) Allowing or permitting an animal to damage the property of anyone other than its owner.
 - (2) Maintaining an animal that is diseased and dangerous to the public health.
 - (3) Maintaining an animal that habitually or repeatedly chases, snaps at, or attacks pedestrians, bicycles, or vehicles, or any animal whose behavior constitutes a reasonable risk of injuring a human or other animal.
 - (4) Any animal that runs at large upon public or private property without permission from the property owner.
 - (5) Any animal that defecates on public or private property, other than the property of the owner, unless the owner immediately removes and properly disposes of the waste.
 - (6) Failure to remove animal fecal matter such that adjacent property owners or inhabitants are unable to enjoy the use of his or her property due to the odor or smell.
 - (7) Any animal(s) which causes unsanitary or dangerous conditions to exist.
 - (8) Any feral animal.
 - (9) Allowing or permitting an animal to bark, howl, or whine in an excessive, continuous, untimely, or unreasonable fashion, or to make other noise in such a manner so as to result in annoyance or interference with the reasonable use and enjoyment of neighboring premises.
- (b) Upon receipt of a verbal or written complaint by a resident of the city, in addition to, or in lieu of impounding the animal, the ACO or other law enforcement officer shall investigate the complaint and may issue to the owner, if known, of such animal, a notice of ordinance violation. If the owner is not known or cannot be found, the ACO or other law enforcement officer shall post a copy of the notice at the property where the animal was seized. The owner shall be charged with an administrative fine and shall pay such fine to the shelter within seven (7) days from the date of the issuance.

- (c) Any animal, which has been determined to be a recurring or continuing public nuisance by the shelter supervisor or designee, may be impounded and shall not be returned to the owner until said owner can produce evidence to demonstrate that the situation creating the nuisance has been abated and until such owner has paid all impoundment, redemption, and boarding fees. The right to impound such animal shall be a means of enforcing this ordinance available to the animal shelter supervisor, the ACO or other law enforcement officer separate and distinct from the administrative fines that may be imposed hereunder.
- (d) In cases of multiple violations of this ordinance by different animals owned, harbored, or under the control of a single individual, family, group, or association, such violations shall be deemed to have been committed by the same animal for the purposes of the enforcement of this ordinance.
- (e) Any person violating any provision of this section shall be subject to an administrative fine. Each day's violation of any provision of this section shall constitute a separate offense and shall be subject to a fine as follows:
 - (1) *First offense*: Fifty dollar (\$50.00) administrative fine. Future violations (second, third and subsequent offenses) shall be from the date of the first offense violation and extend for a period of twelve (12) months. At the end of this twelve-month period, a subsequent offense shall be considered a first offense violation.
 - (2) *Second offense*: Seventy-five (\$75.00) administrative fine.
 - (3) *Third and subsequent offenses*: One hundred (\$100.00) administrative fine.

EXHIBIT C

Sec. 3-11. – Dangerous animal enforcement.

(c) Precautions against animals deemed dangerous animals.

- (1) When an animal deemed a dangerous animal by the animal shelter supervisor, ACO, and or law enforcement officer(s), it shall be unlawful for the owner or harborer to:
 - (A) Leave such animal unattended on the owner's real property unless the animal is confined indoors, in a securely enclosed and locked pen, or in another structure designed to restrain the animal. Any secure enclosure or locked pen shall be constructed in such a manner that a dog cannot escape by means of digging under or jumping over the enclosure or pen, or otherwise becoming free unless freed by the owner; or
 - (B) Permit such animal to go beyond the owner's real property unless the animal is leashed and muzzled or is otherwise securely restrained and muzzled. Voice command is not recognized as secure restraint under this article.
- (2) An animal that is deemed a dangerous animal and subsequently found at large alone or in a pack or group is subject to immediate impoundment by the animal shelter supervisor, ACO, and or law enforcement officer(s) and shall be impounded for not less than five (5) days at the owner's expense. If all reasonable attempts to seize such animal are unsuccessful, the animal shelter supervisor, ACO, and or police department may humanely tranquilize and seize the animal, without prior notice to the owner. The right to impound such animal shall be a means of enforcing this ordinance available to the animal shelter supervisor, the ACO or other law enforcement officer separate and distinct from the administrative fines that may be imposed hereunder.
- (3) Any person violating precautions against dangerous animals shall be subject to an additional administrative fine. Each day's violation of any provision of this section shall constitute a separate offense and shall be subject to a fine as follows:
 - (A) *First offense*: One hundred dollar (\$100.00) administrative fine. A first offense is the violation of this article by any and all dogs owned or harbored by a person and extend for a period of twelve (12) months. At the end of this twelve-month period, a subsequent offense shall be considered a first offense violation.
 - (B) *Second offense*: Two hundred dollar (\$200.00) administrative fine. An individual shall be deemed a second offender regardless of whether the dangerous animal the offender owns or harbors is the same animal the individual owned or harbored from the first offense.

- (C) *Third offense and subsequent offenses*: Five hundred (\$500.00) administrative fine extend for a period of twelve (12) months. An individual shall be deemed a subsequent offender regardless of whether the dangerous dog the offender owns or harbors is the same animal the individual owned or harbored from the first, second, third, or other subsequent offenses.
- (d) A dangerous animal must be ordered destroyed when, in the municipal court's judgment, the dangerous animal represents a continued threat of serious harm to human beings or domestic animals due to the animal's dangerous qualities of either:
- (1) Having a reasonably known propensity, tendency, or disposition by its owner or harborer to attack unprovoked, cause injury, or otherwise endanger the safety of human beings or domestic animals; or
 - (2) Engaging in an unprovoked attack that causes bodily injury to a human being or domestic animal and the attack occurs in a place other than the place where the animal is confined; or
 - (3) Committing unprovoked acts in a place other than the place where the animal is confined and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to a human being; or
 - (4) Engaging in pack-like behavior such as roaming unleashed and non-muzzled in a group consisting of two (2) or more animals; or
 - (5) Being owned or harbored primarily or in part for the purpose of fighting or which is trained for fighting.
- (e) Pursuant to S.C. Code 1976, § 47-3-20, the animal shelter supervisor, ACO, and or law enforcement officer(s) shall have the authority to enter public or unfenced private property within the city to take immediate steps to seize an animal deemed a dangerous animal and to hold the animal pending final court determination.
- (f) Pursuant to S.C. Code 1976, § 47-3-20, the animal shelter supervisor, ACO, and or law enforcement officer(s) shall have the authority to enter fenced private property, exclusive of buildings when the owner or harborer of a dangerous animal refuses to surrender such animal, and may take immediate steps to seize the dangerous animal and to hold the animal pending final court determination.
- (g) In cases of multiple violations of this ordinance by different animals owned, harbored, or under the control of a single individual, family, group, or association, such violations shall be deemed to have been committed by the same animal for the purposes of the enforcement of this ordinance.
- (h) Nothing in this section shall abrogate any civil remedies available under statutory, common, or other superior law.