

ORDINANCE NO. 50-2014

AN ORDINANCE AMENDING CHAPTER 4, OF THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, ALABAMA REGARDING ANIMAL CONTROL AND ADOPTING NEW LICENSE PROCEDURES

SECTION 1. AMENDMENTS TO CHAPTER 4 of the CODE of ORDINANCES

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MONTGOMERY, ALABAMA, that Article 1, Section 4-1; Article III, and Article IV, Section 4-123 of Chapter 4 of the Code of Ordinances for the City of Montgomery, Alabama be amended to read as follows:

ARTICLE I. – IN GENERAL

Sec. 4-1. - Definitions.

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

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

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

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

Animal control unit means the unit within the city police department responsible for enforcement of this chapter.

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

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

Attack means to charge in a menacing and threatening fashion growling, barking or uttering other noises which places the citizen in imminent fear of injury.

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE IV. VICIOUS ANIMALS

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

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

(b) Animal control officers are authorized to initiate a vicious animal investigation in cases where a bite or serious injury to any person has been reported.

(c) In the event the vicious animal investigation leads the animal control officer to believe the allegation is founded:

(1) The animal control officer will file a summons for the owner of the animal with the municipal court;

(2) The animal in question will be impounded at the animal shelter;

(3) A hearing date will be held in municipal court within 14 days of the date of service;

(d) In the event the vicious animal investigation leads the animal control officer to believe the allegation is unfounded, the animal control officer will advise the complainant of his findings and submit the results of the investigation to the animal control supervisor.

(e) A copy of all investigations made pursuant to this section will be kept on file in the animal control office.

(f) If the Municipal Court determines the animal is a vicious animal:

- (1) The animal will be held in impound until the owner complies with all orders of the court; however, the animal will be humanely destroyed if the owner fails to comply with all orders of the court within 20 days of the court's order.
- (2) The vicious animal shall be microchipped.
- (3) The vicious animal shall be spayed/neutered.
- (4) The owner shall be required to pay all expenses involved with the pickup and impoundment of the animal at a rate of \$35.00 to the animal shelter for the pickup of the animal, one half of which will be returned by the animal shelter to the city general fund, and a fee of \$20.00 per day, per animal for each day the animal was housed at the animal shelter. The total amount of the daily housing fee is to be retained by the animal shelter.
- (5) The owner shall be required to pay an annual \$100.00 registration of animals deemed vicious by municipal court or penalty of \$100.00 for non-registration within two weeks. The owner must provide proof of liability insurance as required by Section 4-123(f)(6) each time the annual registration fee is paid.
- (6) The owner shall be required to obtain liability insurance coverage of at least \$100,000 and provide proof of insurance to the municipal court or animal control office. The insurance must provide coverage for animal bites, injuries or death caused by an animal.

SECTION 2. ADOPTION OF THE FOLLOWING.

WHEREAS, limiting the number of dogs per residence is substantially related to controlling the problems of dog noise and odor, and controlling such problems benefits the general welfare and health of the citizens of Montgomery,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MONTGOMERY, ALABAMA, that the following is adopted:

1. Keeping large numbers of animals; special permit.

It shall be unlawful for any person to engage in the business of breeding, buying, selling, trading, training or boarding, without having obtained a special permit from the City of Montgomery. There shall be only one special permit issued per residence. The special permit shall be issued by the Chief of Police for the City of Montgomery, or his designee. The fee for such special permit, or any renewal thereof, shall be \$20.00.

2. Exemption from fees. The City shall issue a license upon application and without payment of a license fee required under this section for:

- (a) trained guide dog owned or kept by a visually impaired person or such a dog awaiting training;
- (b) A trained hearing dog owned or kept by a hearing-impaired person or such a dog awaiting training;
- (c) A trained service dog owned or kept by a physically impaired person or such a dog awaiting training;
- (d) A trained search and rescue dog recognized by the Central Alabama Search and Rescue or by another search and rescue association or organization that cooperates with and is recognized by state and local law enforcement; and

- (e) A dog certified by the State and used for law enforcement purposes.
- (f) Dogs or Cats being cared for or fostered by a duly incorporated animal rescue organization possessing IRS 501 (c) 3 status.

3. Misrepresentation of Service Dog

- (a) A person who fits a dog with a harness, collar, vest or sign of the type commonly used by blind person in order to represent that the dog is a service dog or commonly used by persons with disabilities to represent that the dog is a service dog when training of the type that guide dogs normally receive has not been provided or when the dog does not meet the definition of “service animal” as defined by *Alabama Code* §21-8-4 commits a civil violation for which a fine of not more than \$500 and incarceration of no more than six (6) months may be adjudged.

4. Suspension or Revocation of Special Permit

- (a) The special permit may be suspended or revoked by the Municipal Court Judge of the City of Montgomery upon an individual’s adjudication of guilt of any ordinance under Chapter 4 of the City of Montgomery Code of Ordinances. This penalty is in addition to all other criminal penalties authorized by law.
- (b) The special permit may be suspended or revoked by the Chief of Police for the City of Montgomery. However, such suspension or revocation may be appealed to the City Council by giving written notice to the City Clerk within 30 days of the date of the suspension or revocation. However, if the basis of the suspension or revocation is an alleged violation of an ordinance within Chapter 4 of the City of Montgomery Code of Ordinances, the alleged violation shall be prosecuted and suspension or revocation shall be determined by the Municipal Court Judge
- (c) Any person whose application for a permit is denied, or whose permit is revoked, shall have the right to have said denial or revocation reviewed by the city council. The city council's determination shall be binding and conclusive of the issue.

SECTION 3: EFFECTIVE DATE

This ordinance shall become effective upon passage, approval and publication or as otherwise provided by law.

ADOPTED this the 19th day of August, 2014.

/S/
TODD STRANGE, MAYOR

ATTEST:
/S/
BRENDA GALE BLALOCK, CITY CLERK