

ORDINANCE NUMBER

#2022-04

AN ORDINANCE TO AMEND ARTICLE III (ANIMAL CONTROL) OF
CHAPTER 6 (ANIMALS) OF THE CITY OF SIMPSONVILLE CODE OF
ORDINANCES

WHEREAS, the City of Simpsonville City Council reviews its Ordinances at various times to make necessary improvements and/or changes; and,

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Simpsonville as follows:

Section 1. Amendment. Amend Article III (Animal Control) of Chapter 6 (Animals) as follows:

Sec. 6-81. Definitions.

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

Animal means any nonhuman living vertebrate, whether wild or domesticated.

Animal control office means the office designated by the city with such powers and duties as are set forth in this article.

Animal control officer means the person appointed by the city administrator to be the animal control officer who shall be vested with the authority to enforce and otherwise administer the provisions of the animal control ordinance and state laws pertaining thereto.

Owner or keeper means any person who:

- (1) Has a right of property in an animal;
- (2) Keeps or harbors an animal or has it in his care, or acts as its custodian for two weeks or more; or
- (3) Permits an animal to remain on or about any premises occupied by him.

Vicious animal means an animal:

- (1) With a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or to otherwise endanger the safety of humans or domestic pets; or
- (2) Which attacks or has attacked a human being or other domestic animal without provocation; or
- (3) Which is trained or used to fight, or to attack humans.

(Code 1995, § 6-71; Ord. No. 2016-08 , § 1, 10-11-2016)

Cross reference(s)—Definitions generally, § 1-2Cross reference(s)—.

Sec. 6-82. Animal control officer's scope of authority.

(a) *General powers, authority and duties.*

- (1) The officer designated by the city with the enforcement of animal control shall have the authority to enforce all applicable laws concerning animal control as set forth by this article or other laws and such additional procedures, duties and responsibilities as the city shall, from time to time establish.
- (2) It shall be the duty of the animal control officer to provide education, whether by house visits or information given out to new residents at the time they receive their occupancy permit. Information about animal control shall be given to apartment managers and local real estate offices.
- (3) Nothing in this section shall abridge or limit the right and duty of law enforcement to enforce the provisions of this or any other law concerning animal control to the degree to which their training and expertise may allow them to do so.

(b) *Maintenance of records.* The Animal Control Officer shall be familiar with and maintain accurate and complete records relating to the following matters:

- (1) Impoundment and disposition of all animals coming into his custody.
- (2) All animals registered in the city.
- (3) All money belonging to the city which is in his custody and for which he is accountable. All records shall be open to inspection at all times by persons authorized to inspect them and shall be audited annually by the city.

(c) *Search warrants.* The animal control officer may obtain a search warrant to enter any premises upon which there is probable cause to believe that a violation of this article exists. The officer may then demand to examine such animal and take possession of the animal, when, in the officer's opinion, it requires removal from the premises and a violation of this article has occurred.

(d) *Pursuit of rabid or abused animals.* The animal control officer is hereby authorized and empowered to follow and enter upon any enclosure or lot, public or private, within the city in quest of any animal which the animal control officer has reasonable cause to believe has been abused, neglected, is vicious, or has rabies.

(e) *Impoundment of felines.* Notwithstanding any other provision of the Code of Ordinances of the city, the animal control officer shall have the authority, but shall not be required, to impound felines. The Animal Control Officer shall provide reasonable assistance to citizens who wish to impound felines.

(Code 1995, § 6-72; Ord. No. 1999-5A, § 6-72(e), 4-13-1999; Ord. No. 2017-001 , § 1, 6-12-2017)

Cross reference(s)—Officers and employees, § 2-131Cross reference(s)— et seq.

Sec. 6-83. Interference with animal control officer.

It shall be unlawful for any person to interfere with, hinder, molest or obstruct the animal control officer in the performance of his duty or seek to release any pet in his custody without his consent.

(Code 1995, § 6-73)

Sec. 6-84. Nuisance animals.

- (a) *Limitation on number.* It shall be a nuisance to keep more than four animals on the premises of any real estate lot of less than one acre in size. This provision shall not apply to a veterinarian or boarding establishment for animals, provided such person or business entity is in compliance with all licensing and zoning laws. Any person harboring or maintaining custody or control over animals in violation of this section shall be guilty of a misdemeanor. Each day of a continuing violation of this section shall be deemed a separate violation.
- (b) *Bothersome, threatening animals.* The actions of an animal 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 the ordinary use and enjoyment of their property.
- (c) *Public nuisances described.* It shall be unlawful for any person to 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 an 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 including, but not limited to, turning over garbage containers or damaging gardens or flowers.
 - (2) 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.
 - (3) Maintaining property in a manner that is offensive, annoying or dangerous to the public health, safety or welfare of the community because of the number, type, variety, density or location of the animals on the property.
 - (4) Allowing or permitting an animal to bark, whine, cry or howl in an excessive, continuous, untimely or unreasonable fashion, or to make other noise in such a manner so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises. It is the intent of this section to abate the problem of domestic animal howls, barks, whines or cries which materially interfere with or affect the health, comfort, peace and quiet within the city.
 - (5) Maintaining an animal in an environment of unsanitary conditions which results in offensive odors, filth, vermin or disease, or is dangerous to the animal or to the public health, safety or welfare.
- (d) *Complaint, investigation, notice to correct.* Upon the receipt of two detailed written and signed complaints from separate households in close proximity to the offender that a person

is violating the provisions of this section, the animal control officer or other appropriate law enforcement officer shall notify the owner or keeper of the domestic pet in question that a complaint has been received and shall investigate the complaint. If the investigation determines that the complaint is justified, the animal control officer or other appropriate law enforcement officer shall notify the owner or keeper of the domestic animal, in writing, to correct the violation.

- (e) Confinement. If the animal control officer determines that an animal is a nuisance as defined in section 6-84, in addition to the penalties provided for in section 6-87, he may notify the owner, if the owner can be found, by serving a written notice upon him to confine the animal to his premises in a securely enclosed and locked pen. The pen must have either sides six feet high or a secure top. If the pen has no bottom secured to the sides, the sides must be embedded into the ground at a depth of no less than one foot. The written notice shall also provide that failure to comply within the five-day period shall be cause to seize and dispose of the animal as set forth in section 6-85(d).
- (fe) *Continuing violations.* Should the owner or keeper of any domestic animal found to be in violation of this section fail to correct said violation after ten days, the owner of such domestic pet shall be subject to the penalties for violations provided in this section, with each day in violation constituting a separate offense.

(Code 1995, § 6-74; Ord. No. 2017-001 , § 1, 6-12-2017)

Sec. 6-85 Vicious animals and Seizure of animals.

- (a) It shall be unlawful for any person to own, keep, have charge of or in any way maintain or harbor any animal which is vicious as defined in section 6-81. This shall not apply to any animal that attacks any person or animal unlawfully upon its owner's or keeper's premises.
- (b) If the animal control officer determines that an animal is vicious as defined in section 6-81 ~~has dangerous propensities or is a nuisance as defined in section 6-84, or that it has attacked someone either without provocation or without causing serious bodily harm,~~ in addition to the penalties provided for in section 6-87, the officer may, in his discretion, take the following actions: he shall
- (i) Notify the owner, if the owner can be found, by serving a written notice upon him to confine the animal to his premises in a securely enclosed and locked pen. The pen must have either sides six feet high or a secure top. If the pen has no bottom secured to the sides, the sides must be embedded into the ground at a depth of no less than one foot. The premises must be clearly posted giving notice that a dangerous animal is kept on the property. Failure to comply within the five-day period shall be cause to seize and dispose of the animal as set forth in subsection (d) ~~(e)~~ of this section; or
- (ii) Notify the owner, if the owner can be found, by serving a written notice upon him of the immediate seizure of the animal as set forth in subsection (d) of this section.
- (c) The animal control officer shall consider the following factors and any other factors he considers relevant before seizing an animal he has determined to be vicious:

- (i) prior complaints involving the animal;
- (ii) prior violations of this Chapter involving the animal;
- (ii) the severity of the attack and injuries inflicted upon a person or domestic animal;
- (iv) the owner of the animal cannot be located or the animal has been abandoned; and
- (v) violations of state law or regulations concerning animals.

(de) If the animal control officer decides to seize an animal because he has determined that an animal is vicious or that it has not been properly confined pursuant to a notice as set forth in subsection (b) of this section or section 6-84(c). ~~If the animal control officer has determined that an animal is vicious or that it has not been properly confined pursuant to a notice as set forth in subsection (b) of this section, then he shall notify the owner immediately in writing, if the owner is known. The~~ the owner shall turn the animal over to the animal control officer immediately after such notification. If the owner fails to properly surrender the animal, he may be arrested for a violation of subsection (a) of this section and an order of forfeiture of the animal may be sought from the court. ~~If the owner fails to properly surrender the animal, he may be arrested for a violation of subsection (a) of this section and an order of forfeiture of the animal may be sought from the court.~~ The animal may be seized pending trial. Upon the court's final determination that the animal is vicious or upon conviction under this section, the court may order animal control officer may the disposal dispose of the animal in one of only two specific ways:

- (1) By the humane destruction of the animal; or
 - (2) By giving the animal to an individual or organization not within the limits of the city, subject to protective and inspection conditions required by the animal control officer, for the well-being of the animal and the protection of the public.
- (ed) An animal declared to be a vicious animal shall not be disposed of for research or experimental purposes. These provisions are intended to supplement state law and vicious animals may also be seized under the provisions of S.C. Code 1976, § 47-3-750.

(Code 1995, § 6-75; Ord. No. 2017-001 , § 1, 6-12-2017)

Sec. 6-86. Enforcement; procedure for search warrant and seizure.

- (a) When a complaint is made on oath or affirmation to any magistrate or municipal judge authorized to issue warrants in criminal cases that the complainant believes or has probable cause to believe that this section in relation to animals has been violated in any particular building, premises or place, such magistrate or judge, if satisfied that there is probable cause for such belief, shall issue a search warrant authorizing any law enforcement officer, accompanied by an animal control officer, to search the building or place.
- (b) The animal control officer may examine such animal and may take immediate possession of such animal when, in his opinion, it is receiving inhumane treatment.
- (c) Upon conviction, a fine shall be assessed in accordance with section 6-87.

(Code 1995, § 6-76)

Sec. 6-87. Penalty.

- (a) Any person who violates the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction, shall be punished in accordance with section 1-9 and shall also be responsible to pay costs for shelter, food, and veterinarian bills incurred by the City for its care of the animal.
- (b) The court shall not waive or suspend any fine levied in accordance with this section by allowing an owner to give up or surrender possession of any animal.

(Code 1995, § 6-77)

CITY OF SIMPSONVILLE, SOUTH CAROLINA


Paul Shewmaker, Mayor


ATTEST:


Phyllis Long, Municipal Clerk

First Reading: 9-13, 2022

Second and
Final Reading: 10-11, 2022

Approved as to Form:


Daniel R. Hughes, City Attorney