

ORDINANCE NO. 1000

ANIMAL CONTROL

**THE CITY OF WELLFORD ANIMAL CONTROL ORDINANCE
TO PROVIDE
FOR THE MAINTAINING OF ANIMALS WITHIN THE CITY LIMITS, ACTS DEEMED
A PUBLIC NUISNACE AND DANGEROUS DOGS TO PROVIDE A MECHANISM BY
WHICH AN ANIMAL CAN BE DECLARED DANGEROUS PRIOR TO THE ANIMAL
HAVING ATTACKED OR INJURED HUMANS OR DOMESTIC ANIMALS AND THE
DISPOSTION THEREOF**

WHEREAS, the City of Wellford recognizes that some animals within the City have demonstrated a recognized pattern of dangerous and destructive behavior, or have established a pattern of creating a public nuisance; and,

WHEREAS, the Wellford City Council desires to amend and/or supplement the current Wellford *Code of Ordinances* dealing with nuisance animals and vicious dogs to provide a mechanism through which an animal can be declared a nuisance and/or potentially dangerous prior to a person or domesticated animal suffering serious injury; and,

WHEREAS, the actions of an animal constitute a public nuisance when the animal disturbs the rights of, threatens the safety of, or injures a member of the general public, damages property, or interferes with the ordinary use and enjoyment of the property of others in the vicinity of where the animal is kept or properties affected by its running at large or creating a public nuisance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Wellford, South Carolina, that the following Ordinances be adopted and amended as follows:

Running at large

(1) The running at large of all dogs in the city is hereby prohibited. Any person or persons owning, keeping, possessing or harboring any dog or dogs in the city who shall suffer or permit the running at large in the city of any such dogs, whether licensed or unlicensed, wearing a registration tag or without a tag, shall be guilty of a violation of this article. Any dog running at large, dangerous or not, which does not have identification tags or rabies tag shall be deemed abandoned property and may be impounded.

(2) Leashing required

No dog shall be permitted off the premises of the owner or the person keeping or harboring such dog unless such dog shall be on a leash held by a person over the age of twelve (12) years and who shall have complete control of the dog. Such leash shall not exceed eight (8) feet in length.

(3) Domesticated Animals Running at Large

It shall be unlawful for the owner or any person in control of any horse, swine, sheep or any other domestic animal to allow such animal to run at large beyond the limits of his own land or lands leased or occupied or controlled by him.

Dogs in Estrus

All female dogs in season shall be kept inside a building or within a fence or other enclosure which limits the dog to a particular confined area so that the dog cannot come into contact with a male dog except for planned breeding.

When allowed outdoors, a female dog in season shall be on a hand held leash and under the observation of its owner or keeper and must remain on the property of the owner or keeper. Female dogs in season are not permitted to be walked on any public roadway or property.

Enforcement

Any law enforcement officer or designated agents of the City may seize and impound any dog found running at large. Any person may seize any dog found on his property and deliver it to the Spartanburg County Humane Society to be impounded.

Possession of wild, exotic or endangered animals

- (a) No person shall keep or be permitted to keep on his premises any wild, exotic, or endangered animal for sale, hire, display or for exhibition purposes whether gratuitously or for a fee. This section shall not be construed to apply to zoological parks, performing animal exhibitions, or circuses.
- (b) No person shall keep or be permitted to keep any wild, exotic, or endangered animal as a pet.
- (c) For the purposes of this section, wild or exotic animal includes, but is not limited to, any member of the following families, including hybrids thereof, which, due to their inherent nature, may be considered dangerous to humans, and further defined as follows:

(1) Class Mammalia

- a. Order Artiodactyla (hippopotamuses, giraffes, camels, deer, not to include cattle or swine or sheep or goats)
- b. Order Carnivora
 - i. Family Felidae (lions, tigers, cougars, leopards, ocelots, servals, not to include domestic cats)
 - ii. Family Canidae (wolves, coyotes, foxes, jackals, or hybrids of same, not to include domestic dogs)
 - iii. Family Ursidae (all bears)
 - iv. Family Mustelidae (weasels, skunks, martins, minks, not to include ferrets)
 - v. Family Procyonidae (raccoons, coatis)
 - vi. Family Hyaenidae (hyenas)
 - vii. Family Viverridae (civets, genets, mongooses, binturongs)
- c. Order Edentata (anteaters, armadillos, sloths)
- d. Order Marsupialia (opossums, kangaroos, wallabies, not to include sugar gliders)
- e. Order Perissodactyla (rhinoceroses, tapirs, not to include horses or donkeys or mules)
- f. Order Primates (lemurs, monkeys, chimpanzees, gorillas)
- g. Order Proboscidae (elephants)

(2) Class Reptilia

- a. Order Squamata
 - i. Family Varanidae (only water monitors and crocodile monitors)
 - ii. Family Iguanidae (only green iguanas and rock iguanas)

- Hi. Family Boidae (all species whose adult length has the potential to exceed eight feet in length)
- iv. Family Colubridae (only boomslangs and African twig snakes)
- v. Family Elapidae (such as coral snakes, cobras, mambas, etc.) – All species.
- vi. Family Natricidae (only keelback snakes)
- vii. Family Viperidae (such as copperheads, cottonmouths, rattlesnakes, etc.) – All species.
- b. Order Crocodylia (such as crocodiles, alligators, caimans, gavials, etc.) – All species.

(d) For the purposes of this section, endangered animal means any animal or hybrid thereof that has been classified as endangered by the federal government.

Hog Pens Prohibited

It shall be unlawful for any person, firm or corporation to raise pigs or hogs or maintain a pigpen within the City limits.

County Animal Control Ordinance Adopted

The provisions of the Spartanburg County Code of Ordinances Chapter Six (6) titled "Animals" are hereby adopted by reference as if fully set forth herein so that the provisions of the Spartanburg County Code of Ordinances related to animal control shall be enforceable by the Spartanburg County Office of Environmental Enforcement within the City of Wellford.

Abuse of animals

(1) *Prohibited.* It shall be unlawful if a person negligently or willfully:

- (a) Fails to provide adequate sustenance and/or fresh clean water for any animal he owns, possesses, or harbors;
- (b) Fails to provide adequate medical attention for any sick, diseased or injured animal he owns, possess, or harbors;

(c) Keeps any animal under unsanitary or inhumane conditions which are detrimental to the animal's health and general welfare or fails to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease; or fails to provide a living area free of accumulated waste and debris so that the animal is free to walk or lie down without coming in contact with any waste or debris.

(d) Teases, molests, or in any way bothers or harasses any animal;

(e) Fails to provide permanent, clean shelter for an animal he owns, possesses, harbors, or encloses, wherein the animal can be protected from extremes of weather (heat, cold, rain, etc.) and allowed to remain dry and comfortable during inclement weather;

(f) Places or confines an animal or allows an animal to be placed or confined in a motor vehicle under such conditions or for such a period of time as to endanger the health or well-being of such animal due to temperature, lack of food or drink, or such other conditions as may reasonably be expected to cause suffering, disability or death:

i. After making a reasonable effort to find the driver of a vehicle in which an animal is confined, an Animal Control Officer, or other law enforcement officer, may use the least intrusive means to break and enter the vehicle if necessary to remove the animal where probable cause exists to believe that the animal is in the vehicle in violation of this subsection.

ii. The law enforcement officer shall then impound the animal and leave in a prominent place on the motor vehicle a written notice of the animal's impoundment, a brief description of the animal, and where and when the animal may be reclaimed.

iii. So long as an animal is within sight of the law enforcement officer, this section shall not be interpreted to require that any warrant be obtained before removing the animal so long as such removal is otherwise consistent with the United States Constitution.

(g) Fails to provide sufficient shade, when sunlight is likely to cause overheating and discomfort, that allows animals kept outdoors to protect themselves from the direct rays of the sun;

(h) Inflicts unreasonable pain or suffering upon any animal, or who fails to provide prompt medical attention to prevent suffering, or whosoever causes the same to be done, whether such person is the owner thereof or has the charge or custody of the same.

Confinement of animals

Primary stationary confinement by tethering is deemed and considered to be cruel treatment. However, an animal, including dogs, cats or other domestic pets may be tethered as a means of temporary confinement, provided;

- (1) The animal remains at least 15 feet from the roadway or sidewalk at all times.
- (2) The animal shall be tethered in such a manner as to prevent injury, strangulation or entanglement on fences, trees or other objects.

(3) Any chain or tether must be attached to a properly fitting collar or harness worn by the animal. Collars shall not be of a choke type. The chain or tether must be of proper weight for the size of the animal and must be at minimum 15 foot long.

(4) Animals may not be tethered for more than nine (9) hours per day.

The temporary tethering and/or restraining of a dog after taking possession of a dog that appears to be a stray, and after having advised Animal Control of the capture of the dog, is permissible providing that: the dog is secured in such a way to prevent choking or injury to the animal and the animal has continuous access to water, and to food if the confinement will be more than 12 hours.

This section does not apply to walking an animal on a hand held leash, use of a dog during lawful hunting activities, the use of a dog while farming or herding livestock, while training a dog using normally accepted training techniques or when the restraining is reasonably necessary for the safety of the dog.

Animals shall not be confined outdoors in a pen or other enclosure that is not of adequate size to provide both an exercise area and adequate shelter. Enclosures shall be maintained in a sanitary condition.

A violation of this ordinance shall be a misdemeanor. Upon repeat offenses by the same person, the animal, under the discretion of a law enforcement officer, may be impounded and placed in a safe harbor until ordered by the Court to be released. The owner of the impounded animal shall be responsible for any costs associated with the animal's placement. If the owner fails to pay the impound costs, the animal will be surrendered to the Spartanburg County Humane Society or placed up for adoption.

Pet Shops

A law enforcement officer of the City or an animal control officer of Spartanburg County shall have the authority to conduct inspections of pet stores, to the extent not preempted by state law, in order to determine if there is any abuse of animals. Abuse of animals shall include any act described in this section or any other act that is detrimental to the well-being of the animal. It shall be unlawful for any pet store employee or pet store owner to violate this section.

Striking an animal with a vehicle

- (1) It shall be unlawful for any person to intentionally strike an animal with an automobile or other vehicle.
- (2) It shall be unlawful for any person injuring or killing a domestic animal by striking it with an automobile or other vehicle, intentionally or accidentally, to fail to notify the Police Department as soon as possible after the incident.

Barking dogs

- (1) No person owning or keeping any dog within the City shall suffer or permit the dog to disturb the peace and quiet of the neighborhood by incessant barking or by making other loud or disturbing noises.
- (2) No person shall keep, harbor or maintain any dogs which habitually bark or cry so as to disturb the public peace.

Nuisance animals; Acts deemed a Public Nuisance

(1) It shall be unlawful for any person to own, keep, possess or maintain within the City an animal in a manner so as to constitute a public nuisance. By way of example and not of limitation, the follow acts or actions by an owner or keeper are hereby declared to be a public nuisance and are, therefore, unlawful:

- (a) Allowing or permitting an animal to damage the property of anyone other than its owner or keeper, or to impede the property owner's ordinary use and enjoyment, even if the property is not physically damaged;
- (b) Maintaining an animal that habitually or repeatedly chases, snaps at, or attacks persons, bicycles, or vehicles, or maintaining any animal whose behavior constitutes an unreasonable risk of injury to a human or domesticated animal;
- (c) Allowing an animal to damage or destroy public property or the private property of another (including garden and flower beds and trees);
- (d) Allowing an animal to intrude into waste containers;
- (e) Allowing an animal to venture onto school grounds, public parks, or other private property;
- (f) Maintaining property for an animal in a manner which results in an environment of unsanitary conditions causing offensive odors, filth, vermin, or disease; or is dangerous or unhealthy to the animal or the public health, safety or welfare of the community because of the type, variety, density, or location of the animals on the property.
- (g) Allowing or permitting an animal to bark, bay, whine, howl, crow or cackle in an excessive, continuous, or unreasonable fashion, or to make other noise in a manner so as to result in a serious interference with the reasonable use and enjoyment of neighboring premises.

(2) Upon the receipt of two written and signed affidavits from individuals either residing in separate households or employed by separate businesses in proximity to the offender that a person is violating the provisions of this section, any law enforcement officer shall investigate the complaint. If the investigating officer determines that the complaint is justified, the officer shall notify the owner or keeper of the animal, in writing, to correct the violation within fifteen (15) days. In addition to this procedure, the law enforcement officer shall have the discretion to investigate other types of complaints that an owner or keeper is violating this section and take action consistent with this section.

(3) Should the owner or keeper of any animal found to be in violation of this section fail to correct the violation within fifteen (15) days after the date of notice, the animal may be seized and impounded and the owner or keeper shall be charged with a violation of this ordinance and shall be fined not more than five hundred dollars or imprisoned for not more than thirty (30) days. Upon conviction, the owner or keeper shall be responsible for the payment of all expenses including, but not limited to, shelter, food, necessary veterinary expenses, boarding expenses, and those expenses necessitated by the seizure of the animal for the protection of the public. This penalty is in addition to any other remedies contained in this Chapter or provided for under statutory or common law.

Dangerous dogs

(1) As used in this section, a Dangerous Dog shall mean:

- (a) a dog which attacks a person, domestic animal or domesticated dog or cat and causes physical injury or death when unprovoked, or
- (b) a dog that bites or attempts to bite any person while the dog is at large, or
- (c) a dog that attacks or attempts to attack any other dog or animal, chases or otherwise catch a person while at large, or
- (d) poses a serious threat of harm or endangers the safety of persons, domestic animals while at large or not at large, or
- (e) is owned or harbored for the purpose of dog fighting, or
- (f) is trained for the purpose of dog fighting, or has engaged in dog fighting activities, or
- (g) is tormented, badgered, baited, trained, or encouraged to engage in unprovoked attacks upon persons or domestic animals.

(2) It shall be unlawful for a dog that has bitten, attacked or threatened a human or animal to remain at large. A law enforcement officer shall have the authority to enter upon private property, including entry into a dwelling unit or other similar building, when the law enforcement officer has observed a dog which has committed the biting, attacking or

threatening in violation of this section and impound the dog until directed otherwise by the Municipal Court. Such entry upon private property shall not be deemed to be a trespass. Such entry is authorized so long as it is otherwise consistent with the State and United States Constitutions.

(3) It shall be unlawful for any person to own, keep, have charge of, shelter, harbor, or take care of any dangerous dog within the City limits.

(4) This section shall not apply to:

(a) Police dogs owned by law enforcement agencies which are trained to restrain people or otherwise working in the line of duty, or

(b) Military dogs owned by any branch of the military services which are trained to restrain people or otherwise working in the line of duty, or

(c) Security dogs owned by a licensed security company which are trained to restrain people or otherwise working in the line of duty.

(d) A dog shall not be declared dangerous if the threat, injury or damage was sustained by a person who at the time was committing an offense upon the property of the owner of the dog, or was tormenting, abusing or assaulting the dog or has in the past been observed or reported to have tormented, abused or assaulted the dog. A dog shall not be declared dangerous if it threatens or attacks while in distress from injury or illness or is protecting its young.

(5) When a dog commits any act as described in this section, that dog shall be conclusively presumed to be a dangerous dog and a dog of dangerous propensities and tendencies, provided any owner or keeper of a dog, after ordered to remove a dog from the City may request a hearing before the Municipal Court to adjudicate a dangerous dog determination. Request for a hearing must be made within five (5) days of receiving a notice to remove the dog from the City

(6) When probable cause exists to believe that any person harbors, keeps, owns, or maintains a dangerous dog as defined by this ordinance a law enforcement officer shall cause a hearing before the Municipal Court to adjudicate a dangerous dog determination.

(7) A dog that has been conclusively presumed or adjudicated by the Municipal Court as a dangerous dog shall be removed from the City limits within fifteen (15) days. Should the dog not be removed from the City limits, the owner or keeper of the dog shall be in violation of this section by harboring a dangerous dog and the dog shall then be surrendered to the City for removal and placement with the Spartanburg County Humane Society for humane disposition.

(8) A dog that has been adjudicated dangerous which has attacked a human being or domestic animal may be ordered euthanized in a humane manner by a licensed veterinarian when in the court's judgment the dog represents a continuing threat of serious harm to human beings or domestic animals.

(9) Any dog found running at large which is conclusively presumed to be a dangerous dog or has been adjudicated by the court as a dangerous dog and where capture of the dog has been unsuccessful or attempted capture of the dog places humans at obvious risk of injury, the dog may be destroyed by any law enforcement officer.

Abandonment of animals

No owner or keeper shall abandon an animal. An animal shall be considered abandoned when deserted, forsaken, or given up without providing adequate food, water and sanitary shelter for 48 hours or longer. No person shall leave or cause to be left any wounded, diseased or infirmed animal on a street, alley, lot or commons to die. If an animal is found abandoned by its owner or keeper, the Animal Control Officer may take custody and impound the animal. The Animal Control Officer may enter private property to provide food and water for an animal during the 48 hours. If the animal's life is in imminent danger due to abandonment, a law enforcement officer shall immediately take custody of the animal. The endangered animal shall be placed in the care of the Spartanburg Humane Society who will determine the best course of treatment for the animal up to and including humane euthanasia.

Area encompassed

The entire area within the city is hereby designated and established as a bird sanctuary.

Protection of birds

It shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl, or to rob the nests of any such birds or wild fowl, within the City; provided that, if unprotected birds, as defined in South Carolina Code 1976, section 50-1-30(2), congregate in large numbers in any particular locality to such an extent that, in the opinion of the health authorities, they constitute a nuisance or menace to health, then the Chief of Police may abate such nuisance in such manner as he deems best.

Penalties

(1) A person found guilty of violating this article shall pay all expenses, including, but not limited to, shelter, food, veterinary expenses for boarding and veterinary expenses necessitated by the seizure of an animal for the protection of the public and other expenses required for the destruction of the animal.

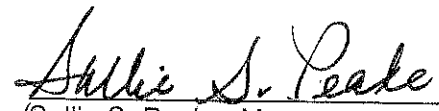
(2) Any person found guilty of violating the provisions of this section may be penalized by a fine of not more than five hundred (500) dollars or thirty (30) days in jail.

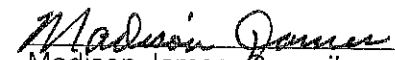
(3) All penalties, fines and costs, incurred by reason of violation of this Chapter shall constitute and be a lien upon such animal or animals.

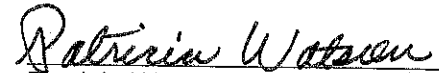
(3) The knowledge and acts of agents and persons employed by corporations in regard to animals transported, owned or employed by or in the custody of such corporation shall be held to be the act and knowledge of such corporation.

First Reading: September 1, 2009

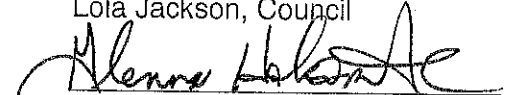
Second Reading: October 6, 2009

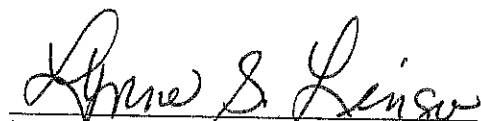

Sallie S. Peake, Mayor


Madison James, Council


Patricia Watson, Council

Lola Jackson, Council


Gienna Holcombe, Council


Lynne S. Lingo, Municipal Clerk