

CITY OF DAPHNE

ORDINANCE NO. 2013-57

AN ORDINANCE REGULATING THE KEEPING OF DOGS, CATS, DOMESTICATED ANIMALS, LIVESTOCK OR FOWL WITHIN THE CITY OF DAPHNE, ALABAMA

WHEREAS the City Council of the City of Daphne has determined that consolidating the existing animal control ordinances which are currently in effect is necessary to effectuate and implement more efficient means of animal control within the City of Daphne; and

WHEREAS the City Council of the City of Daphne has determined that this ordinance consolidating all existing animal control ordinances is in the interest of the public health, safety and welfare of the citizens of the City of Daphne.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA AS FOLLOWS:

SECTION I. OFFICE OF ANIMAL CONTROL OFFICER CREATED

A. There is hereby recognized within the City of Daphne (the "City"), the previously established position of Animal Control Officer. The Animal Control Officer shall be under the supervision, direction and control of the City of Daphne Police Department. The Animal Control Officer shall be supervisor over the City of Daphne Animal Shelter and over all employees assigned to the City of Daphne Animal Shelter. All enforcement officers assigned to the City of Daphne Animal Shelter shall hereafter be known as Animal Control Officers.

B. It shall be unlawful for any person to knowingly or willingly oppose or resist any Animal Control Officer 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 duty.

SECTION II. DEFINITIONS

For the purpose of this Ordinance, the following words and phrases shall have the meaning respectively ascribed to them by this section unless taken specific exception to elsewhere in this ordinance.

Animal. The term shall mean any nonhuman, animate being which is endowed with the power of voluntary motion to include, but not limited to: Mammals, i.e. dogs, cats, horses, hogs, cows, sheep, goats, rabbits, etc.; reptiles; birds; salamanders; toads; frogs; sharks; snakes; rays; bony fishes; and amphibians.

Animal Shelter. The place designated or used as such by the City for the maintenance and operation of a pound.

Animal Control Officers. All enforcement officers assigned to the City of Daphne Animal Shelter.

At large. Any animal which is off the property of its owner or person in charge and not carried by said person, kept in an effective closure or under control or restraint 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 persons or animals.

Bitten. Seized with 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.

Caged. Confinement in a container, which may include a vehicle but not its trunk, in such a way that the free movement of such animal is restrained and so as to prevent the animal caged from biting or attacking a person or animal.

Cat. All members of the domestic feline family.

City of Daphne Animal Shelter. The location designated or used as such by the City for a place of confinement of animals held pursuant to the authority of this Ordinance.

Corral. Any uncovered, enclosed parcel of land where large animals are kept.

Dog. All members of the domestic canine family.

Dogs Presumed to be vicious. Any dog which is known by the owner or person in charge to habitually chase moving vehicles or charge persons on the public streets and other public ways shall be presumed to be vicious, whether or not such dog has actually bitten or attacked a person or other animal.

Domesticated Animal. Shall mean, but is not limited to rabbits, squirrels, raccoons, pot-bellied pigs or any other animal used as a pet.

Fowl. Chicken, turkey, ducks, geese, guineas or other domestic fowl.

Livestock. Horses, mules, donkeys, oxen, sheep, goats, cows, buffaloes and swine, or any one of them.

Owner. means any person, firm, corporation, organization, or department 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, or who permits the animal to remain on or about any premises occupied by him or her.

Person in Charge. Any person who feeds a dog or cat not owned by him or her or who otherwise cares for the animal. This definition shall not include individuals who perform humane acts for the health and safety of an animal on a one time or temporary basis.

Vicious and Dangerous Animal.

- (1) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals.
- (2) Any dog which because of its size, physical nature or vicious propensity is capable of inflicting serious physical harm or death to humans and which constitutes a danger to human life or property if it were not kept in the manner required by this chapter.
- (3) Any dog which, without provocation, attacks or bites or has attacked or bitten a human being or domestic animal.
- (4) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

The terms “potentially dangerous” and “vicious” shall not apply to dogs used by law enforcement officials for legitimate law enforcement purposes, nor dogs used as certified guide dogs for the blind, hearing dogs for the deaf nor aid dogs for the handicapped nor shall it apply to licensed kennels, humane society shelters, animal control facilities, or veterinarians.

SECTION III. LIVESTOCK & FOWL.

A. GENERAL PROVISIONS

1. General Prohibition

It shall be unlawful for any person to keep any livestock or fowl within the city limits of the City.

2. Exceptions

a) All livestock or fowl within the city limits of the City, prior to adoption of Ordinance No. 2003-11, are hereby grand fathered. Animal Control Officers shall have made full inventory of all livestock and fowl currently maintained within the city limits at the time of adoption of

Ordinance No. 2003-11. It shall be unlawful to replace any livestock or fowl that is sold, traded, given away, lost, deceased or otherwise disposed of. All livestock or fowl located upon any real property within the City at the time of adoption of Ordinance No. 2003-11 shall be removed therefrom upon the sell, lease, rent, conveyance or gift of said real property or upon the death of the owner of said livestock or fowl.

b) This section shall not apply to those whose property is annexed in the future should those property owners maintain livestock or fowl upon the property prior to annexation.

3. Condition of Premises

If the premises, exempted from this section as described in Section III, A (2), where livestock or fowl are kept shall not be free from unsanitary droppings, refuse and odors, or shall be in such condition as to breed flies, the Animal Control Office shall notify the owner or person-in-charge of the animals or fowl to remove such matter or cure such condition within a reasonable time to be fixed by the Animal Control Officer and, if such objectionable conditions are not cured within such time as is specified, the Animal Control Officer shall issue a citation to the owner or person-in-charge.

B. LIVESTOCK OR FOWL AT LARGE

It shall be unlawful for any owner or person-in-charge to knowingly, voluntarily or willfully permit any livestock or fowl to be at large within the City.

C. HORSE STABLE PERMIT

1. Any person, firm or corporation desiring to open, operate or be in charge of a horse stable within the City must obtain a yearly permit therefor. The application for permit shall be maintained by the Animal Control Officer and will indicate the number and type of horses, the name, address and phone number of the owner or person-in-charge of each and the veterinarian contact number. The cost of a stable permit will be one hundred fifty dollars (\$150.00) for a new permit and one hundred dollars (\$100.00) for yearly renewal.
2. A consent petition must be signed by all neighbors within five hundred (500) feet of the exterior parameter of the real property line where the stable is located. The petition and application will then be forwarded to the Planning Commission along with plans reflecting, at a minimum, the boundaries of the proposed pasture area and the proposed stable area with square footage per animal indicated thereon.

Commission will then make a recommendation to the City Council. If approved and the stable becomes operational, Animal Control Officers will conduct an inspection of the facility to determine whether the condition of the premises is in compliance with Section I, A (3). A stable exists where two or more horses are kept.

3. This section does not apply to stables existing within the City prior to the adoption of Ordinance No. 2003-11 or to newly annexed properties where stables existed and were operated immediately prior to annexation.

SECTION IV. OPTIONAL LICENSE

A. DOGS AND CATS

The owner or person-in-charge of every dog or cat in the City which is more than three (3) months of age has the option to annually register the same as to sex, breed, description, name and address of the owner or person-in-charge, and name of the dog or cat, if any. There shall be no fee charged for such registration.

SECTION V. DOG, CAT OR DOMESTICATED ANIMAL AT LARGE

A. GENERAL PROHIBITION

No owner or person in charge of a dog, cat or domesticated animal shall permit the dog, cat or domesticated animal to be at large at any time within the City.

B. OWNER LIABILITY

If the owner of any dog, cat or domesticated animal carelessly manages said dog, cat or domesticated animal or permits said animal to be at large, and another person, without fault suffers damage thereby, such owner shall be liable for damages.

SECTION VI. SEIZURE OF DOGS, CATS OR DOMESTICATED ANIMALS AT LARGE

A. POLICE OFFICER'S DUTY TO NOTIFY ANIMAL CONTROL OFFICER OF DOGS OR CATS AT LARGE; PROCEDURE FOR SEIZURE OF DOGS OR CATS AT LARGE

It shall be the duty of every police officer in the City, upon discovering a dog, cat or domesticated animal at large within the City, to promptly notify the Animal Control Officer. It shall be the duty of the Animal Control Officer when so notified, or whenever the Animal Control Officer observes any dog, cat or domesticated animal at large, to immediately seize the dog, cat or domesticated animal and confine the animal to the City of Daphne Animal Shelter and if said dog or cat is licensed by the City, to make a reasonable effort to notify the owner. Any dog, cat or domesticated animal 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 ten (10) days.

B. RETURN OF DOGS, CATS OR DOMESTICATED ANIMALS TO OWNER PERMITTED

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

C. NOTICE TO OWNER OF CONFINEMENT OF DOGS, CATS OR DOMESTICATED ANIMALS

Immediately upon confinement of a dog, cat or domesticated animal, the Animal Control Officer shall make reasonable effort to ascertain the identity of and notify the owner or person-in-charge of such dog, cats or domesticated animal of their confinement and of the conditions under which they may regain possession of such animal.

SECTION VII. NOISY ANIMALS

A. RESIDENTIAL NEIGHBORHOOD PROHIBITION AGAINST KEEPING OF NOISY ANIMALS

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 sounds or noises of such volume and nature as unreasonably to 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. OTHER AREAS PROHIBITION AGAINST KEEPING OF NOISY ANIMALS

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 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. ABATEMENT OF NOISE; ENFORCEMENT

1. Any owner or person-in-charge violating this section shall be guilty of maintaining a nuisance. 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.
2. Any Police Officer or Animal Control Officer may take steps immediately to cure the situation to cause the noise to be abated, either through issuance of a citation, or impounding the animal if the owner, agent or person-in-charge cannot be found at the time of the disturbance.

SECTION VIII. RIGHT OF ENTRY ONTO LAND

The Animal Control Officer shall have the right and duty and to enter upon any property, except inside a private dwelling house, for the purpose of capturing any dog, cat or domesticated animal at large, in compliance with the provisions of this Ordinance.

SECTION IX. PROCEDURE FOR REDEMPTION

The owner of any impounded dog, cat or domesticated animal may, within seven (7) days after the dog, cat or domesticated animal is impounded, redeem the dog or cat or domesticated animal by paying to the City the sum of twenty-five dollars (\$25.00) for impounding and four dollars (\$4.00) per day for the care of said dog, cat or domesticated animal; but if said dog or cat is not currently licensed by the City, the owner must also secure a City license after exhibiting evidence that the dog or cat has been inoculated against rabies.

SECTION X. DISPOSITION OF UNREDEEMED DOGS, CATS OR DOMESTICATED ANIMALS

A. ADOPTION OR HUMANE DESTRUCTION

In the event any impounded dog, cat or domesticated animal is not redeemed within ten (10) days after the same is impounded and the dog, cat or domesticated animal does not bear a current City license, or if after ten (10) days from the time notice has been made to the owner of dog, cat or domesticated animal which has been picked up

but bears a current City license, the Animal Control Officer may, at such Officer's discretion, place said dog, cat or domesticated animal in a home or turn the dog, cat or domesticated animal over to the Daphne Animal Shelter for adoption, or the Animal Control Officer, at such officer's discretion, may destroy said dog, cat or domesticated animal by lethal injection prior to the expiration of the ten (10) days if the animal is injured or ill.

B. HUMANE DESTRUCTION OF NUISANCE ANIMALS

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

C. AUTHORITY TO USE FIREARM

Any Animal Control Officer may be authorized by the Chief of Police to carry a firearm for the purpose of assisting in impounding any dog, cat or domesticated animal shall have the authority to shoot and kill such dog, cat or domesticated animal if, in attempting to capture the same or in otherwise keeping the same, it shall become an immediate hazard to the safety of the person or to the safety of persons or animals in the immediate vicinity.

D. HUMANE DESTRUCTION OF DISEASED ANIMALS - ACTS OF MERCY

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

E. MANNER OF DISPOSAL

The Animal Control Officer, when required to dispose of dogs, cats or domesticated

animals, shall do so by such process as is recognized by veterinary science as being a humane manner in which to destroy dogs, cats and domesticated animals.

F. DISPOSAL OF NON-DOMESTICATED ANIMALS

Non-domesticated animals may be destroyed by the Animal control Officer or by their direction, for public safety to prevent the spread of disease and acts of mercy. Such authority shall come from the Chief of Police for animal control personnel to carry out the provisions of this order.

G. REQUIRED STERILIZATION

Any person who adopts a sexually mature dog or cat, at least 180 days in age, is required by state law to have the animal properly sterilized. Therefore, for all animals adopted through the Daphne Animal Shelter, the following fees will be collected by the Daphne Animal Shelter prior to the adoption of any dog or cat that is not sterilized and which is not privately owned:

For an unsterilized dog: \$85.00
For an unsterilized cat: \$55.00

These fees will be deposited with the Baldwin Animal Rescue Center which has agreed to be responsible for the voluntary transport of the required documentation, the payment, and the animal to a licensed veterinarian, the name and location of which shall be given to the adopting party for the retrieval of the animal after sterilization. The adopting party may, at their election, transport the animal to a specified veterinarian, but in any case, the payment and documentation will be delivered to that veterinarian by the Baldwin Animal Rescue Center. Follow-up will be conducted by the Baldwin Animal Rescue Center to determine that the adopting party has complied with the sterilization law. Should it be determined that an adopting party has not complied with the law, which is a misdemeanor offense, referral will then be made by the Baldwin Animal Rescue Center to the proper authorities for enforcement.

This section does not apply to private persons who have evidence of ownership of an animal taken into custody of the Daphne Animal Shelter.

SECTION XI. RABIES VACCINATION REQUIRED - PENALTY

A. RABIES VACCINATION REQUIRED

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

B. PENALTY

Any owner or person in charge in violation hereof 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. LICENSED VETERINARIAN

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

D. TAG ATTACHMENT MANDATORY

The serially numbered rabies tag issued at the time of inoculation shall at all times be attached to a collar or harness worn by the dog or cat for which the tag is issued. It shall be unlawful for any owner or person in charge of any dog or cat not to keep attached to said dog or cat the tag evidencing the anti-rabies vaccine or inoculation as provided in this Ordinance. However, said tag need not be attached during supervised obedience training classes or animal shows.

E. ANIMAL BITE

1. Whenever the Daphne Police Department or an Animal Control Officer receives information that any person has been bitten by an animal required to be inoculated against rabies, the animal will be placed in quarantine with a duly licensed veterinarian for observation of rabies for ten (10) consecutive days. The owner or person-in-charge shall be responsible for ensuring the quarantine is carried out immediately and at the owner or person-in-charge's expense. A police report will be completed documenting the incident and confirmation of quarantine. It shall be unlawful for any person having knowledge that any person has been bitten by any such animal to refuse to notify promptly the Daphne Police Department or an Animal Control Officer.
2. It shall be unlawful for an owner or person-in-charge to refuse or fail to quarantine an animal.
3. Where biting occurs by a stray animal, the Animal Control Officer may humanely destroy the animal immediately after the bite and submit the Animal's head to the state health laboratory for rabies examination.
4. K-9 animals used by law enforcement shall be exempted from the quarantine period where such bite occurs in the line of duty and evidence of proper

vaccination against rabies, but shall be examined at the end of ten (10) days by a duly licensed veterinarian.

SECTION XII. VACCINATION PERIOD

The vaccination of any dog or cat against rabies shall be valid for a period of one (1) year.

SECTION XIII. CONFINEMENT OF DOGS OR CATS IN HEAT

- A. Every female dog or cat in heat shall be kept confined by the owner or person-in-charge. At any time a female dog or cat in heat is found to be causing a disturbance of any dog or cat 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 XIV. DUTY TO RESTRAIN

A. DOGS AND DOMESTICATED ANIMALS

It shall be the duty of every owner or person in charge of any dog or domesticated animal (excluding cats) to keep said animal under effective restraint, while the same is within the limits of the City, whether or not said dog or domesticated animal (excluding cats) is upon or away from his or her premises. It shall be unlawful for the owner or person in charge of any dog or domesticated animal (excluding cats) to fail to keep said animal under effective restraint. Proof that a dog or domesticated animal (excluding cats) was not properly restrained, whether on or 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 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. DOGS, CATS AND DOMESTICATED ANIMALS / DESTRUCTION-DAMAGE TO PROPERTY

It shall be unlawful for the owner or person-in-charge of any dog, cat or domesticated animal within the City known to said person to habitually cause destruction or damage to the property of another to allow said dog, cat or domestic animal to run at large.

C. DEFECATION ON ANOTHER'S PROPERTY

No owner or person-in-charge of any dog, cat or domesticated animal shall permit such animal to defecate on another person's property. Such owner or person-in-

charge shall, while walking such animal, utilize a restraint device to prevent the animal from defecating on other person's property. It shall be the duty of the owner or person-in-charge to remove and dispose of any feces deposited by said animal upon the grounds of any public park or public place, upon any residential lot of another occupied for human habitation, or upon any right-of-way adjacent thereto. Such removal and disposal shall be done on demand by the owner or occupant of such property or by the Animal Control Officer.

D. CONDITION OF PREMISES

1. The premises where any dog, cat or domesticated animal is kept shall be free from unsanitary droppings, refuse and odors, or in a condition to breed flies or infestation of fleas. Unsanitary or inhumane living conditions for these animals will not be allowed. The Animal Control Officer shall notify the owner or person-in-charge of the premises to remove such matter or cure such condition within a reasonable time, to be fixed by the Animal Control Officer. If such condition is not remedied within the time so fixed, the Animal Control Officer shall issue a citation to the owner or person-in-charge. Animals found in cruel, abusive or neglectful situations may be promptly impounded if the life or health of the animal is at risk. If no contact is immediately made with the owner, then a written notice shall be left indicating the location of the animal and the reason for impoundment. The animal may remain impounded until the condition has been corrected.

2. An owner or person-in-charge of any dog, cat or domesticated animal shall provide adequate shelter from the elements if the animal is kept outside. Adequate food and water shall be made available to the animal. Dogs shall not be kept or maintained on a chain or tether in the City. Any dog confined with a fenced in yard must have adequate space for exercise based on the dimensions of at least 150 square feet per dog. Such enclosure shall be constructed of chain link or wooden fencing or a similar type material with all four sides enclosed. The enclosure shall be of sufficient height to prevent the animal from escaping from such enclosure and shall meet the requirements of the Alabama Animal Rights Protection Act, Section 13A-11-24(1). At no point in time may an animal be tied or leashed to an inanimate object, i.e., tree, post, etc.

As an alternative, the owner may use underground invisible fencing to meet the requirements of this section in lieu of a chain link or wooden fence. The invisible fencing must be able to properly and humanely restrain the dog on the property. A dog at large is prima facie evidence that the invisible fence did not properly restrain the animal. During power outages, etc., the owner must take other proper measures such as bringing the animal inside to prevent the animal from being at large during power outages.

3. No dog, cat or domesticated animal shall be restrained with a restraining device less than six (6) feet long unless walking or training such animal.
4. No dog, cat or domesticated animal shall be placed, confined or allowed 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 welfare of the animal because of temperature, lack of food or water, or such other conditions as may reasonably be expected to cause suffering, disability or death.

E. RIGHT OF ENTRY TO INSPECT

The Animal Control Officer shall have the right and it shall be the Officer's duty to enter upon any property, except a private dwelling house, for the purpose of inspecting any living condition for an animal for which there is a reasonable suspicion to believe that there exists thereupon a violation of this Ordinance.

SECTION XV. STRAY DOGS, CATS OR DOMESTICATED ANIMALS MAY BE TAKEN UP

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

SECTION XVI. HUMANE TRAPS

- A. The Animal Control officer is hereby authorized, in order to apprehend animals in violation of this Ordinance which are otherwise difficult to apprehend, to use traps designed to humanely 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 of Daphne Animal Shelter where they shall be disposed or treated 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 premises within the City may set their own humane trap on such premises for the purpose of removing any animal, except songbirds, which has entered onto the premises.

- E. It shall be the duty of the owner or person-in-charge to check such trap daily and deliver any animal captured therein to the City of Daphne Animal Shelter or to the animal's owner.
- F. Any owner or person-in-charge of any dog, cat or domesticated animal 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 run at large. At any time Dogs or cats are 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 City Court as provided hereafter.

SECTION XVII. CRUELTY TO ANIMALS

- A. Any person who commits any of the acts enumerated hereafter shall be guilty of a misdemeanor:
 - 1. any person who overrides, over-drives, overloads, drives when overloaded, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates, or cruelly kills or causes or procures to be overridden, over-driven, overloaded, driven when overloaded, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated, abandoned or cruelly killed; or
 - 2. any person 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 allows to be ridden or over-driven when unfit for labor; or
 - 3. any person who, having the charge or custody of any animal known to him 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; or
 - 4. any person who unlawfully or maliciously kills, disables, disfigures, or injures any animal, without good cause.

B. EXCEPTION:

This section shall not be construed as prohibiting the dehorning or castration of cattle, sheep or goats.

SECTION XVIII. 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 XIX. 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, a citation may issue to the owner or person in charge for said violation directing the person to appear in Municipal 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. It shall be unlawful and a misdemeanor for any person to fail to appear in City Court at the time and place stated in a citation issued by the Animal Control Officer.

SECTION XX. DISPOSITION OF FEES

All monies collected, as provided for in this Ordinance, shall be turned over and delivered forthwith to the City Treasurer and all revenues generated through enforcement of any section of this Ordinance shall be appropriated by the City for use in supporting, maintaining and providing for the ongoing expense of operating the City of Daphne Animal Shelter and expenses and costs incurred in the enforcement of this Ordinance.

SECTION XXI. MINIMUM PENALTIES

A. PENALTY FOR VIOLATION - FINES:

The following schedule of fines is hereby established by the City pursuant to this Ordinance and the laws of the State of Alabama. In addition to the fines so established, the Defendant shall pay, in addition to such fine amount, any court costs which are in effect at the time of such violation occurs. If the Defendant elects to plead guilty before a magistrate to a violation of any of the municipal offenses contained herein for which there is a fine set forth in this section, the fine plus applicable court cost shall apply. In lieu of appearing before a magistrate, the Defendant may sign a guilty plea and waiver of trial provision on the municipal offense citation, and deliver the amount of the fine plus applicable court costs to the Clerk of the Municipal Court or mail such amount to the Clerk of the Municipal Court for the City of Daphne at 1502 Highway 98, Daphne, Alabama 36526.

B. SCHEDULE OF FINES:

Any person found guilty of the provisions of this Ordinance as referenced herein, the minimum fines shall apply as follows:

**ORDINANCE 2013-57
ANIMAL CONTROL ORDINANCE
PAGE 16**

<u>INFRACTION</u>	<u>FINE</u>	
Allowing dog to defecate another's property	1 st offense within a twelve month period	\$15
	2 nd offense within a twelve month period	\$25
	3 rd offense within a twelve month period	\$50
Animal restrained by leash or restraining device less than six (6) feet long	1 st offense within a twelve month period	\$15
	2 nd offense within a twelve month period	\$25
	3 rd offense within a twelve month period	\$50
Cat at large/ destruction damage to property (no tag)	1 st offense within a twelve month period	\$15
	2 nd offense within a twelve month period	\$25
	3 rd offense within a twelve month period	\$50
Cat at large/ destruction damage to property (with tag)	1 st offense within a twelve month period	\$10
	2 nd offense within a twelve month period	\$25
	3 rd offense within a twelve month period	\$50
Cruelty to animals	1 st offense	Court
	2 nd offense	Court
	3 rd offense	Court
Dog at large (with tag)	1 st offense within a twelve month period	\$10
	2 nd offense within a twelve month period	\$25
	3 rd offense within a twelve month period	\$50
Dog at large (no tag)	1 st offense within a twelve month period	\$15
	2 nd offense within a twelve month period	\$25
	3 rd offense within a twelve month period	\$50
Failure to Restrain	1 st offense within a twelve month period	\$15
	2 nd offense within a twelve month period	\$25
	3 rd offense within a twelve month period	\$50
Fowl at large	1 st offense within a twelve month period	\$15
	2 nd offense within a twelve month period	\$25
	3 rd offense within a twelve month period	\$50

ORDINANCE 2013-57
ANIMAL CONTROL ORDINANCE
PAGE 17

Failure to quarantine animal that has bitten	1 st offense within a twelve month period	Court
	2 nd offense within a twelve month period	Court
Failure to notify authorities of bite	1 st offense within a twelve month period	Court
	2 nd offense within a twelve month period	Court
Failure to obtain rabies vaccination	1 st offense within a twelve month period	\$15
	2 nd offense within a twelve month period	\$25
	3 rd offense within a twelve month period	\$50
Failure to attach rabies tag	1 st offense within a twelve month period	\$15
	2 nd offense within a twelve month period	\$25
	3 rd offense within a twelve month period	\$50
Failure to surrender Dangerous/Vicious animal	1 st offense	Court
	2 nd offense	Court
Failure to confine dog/cat in heat	1 st offense within a twelve month period	\$25
	2 nd offense within a twelve month period	\$50
	3 rd offense within a twelve month period	\$100
Keeping a Dangerous and Vicious animal	See Section XXIII	
Failure to provide adequate shelter/ food and or water	1 st offense within a twelve month period	\$25
	2 nd offense within a twelve month period	\$50
	3 rd offense within a twelve month period	Court
Interfering/ opposing Animal Control Officer	1 st offense within a twelve month period	Court
	2 nd offense within a twelve month period	Court
	3 rd offense within a twelve month period	Court
Keeping prohibited livestock in city limits	1 st offense within a twelve month period	\$25
	2 nd offense within a twelve month period	\$50
	3 rd offense within a twelve month period	Court
Keeping prohibited fowl in city limits	1 st offense within a twelve month period	\$25
	2 nd offense within a twelve month period	\$50
	3 rd offense within a twelve month period	Court

ORDINANCE 2013-57
ANIMAL CONTROL ORDINANCE
PAGE 18

Livestock at large	1 st offense within a twelve month period	\$15
	2 nd offense within a twelve month period	\$25
	3 rd offense within a twelve month period	\$50
Noisy animals	1 st offense within a twelve month period	\$100
	2 nd offense within a twelve month period	\$250
	3 rd offense within a twelve month period	\$500 & Court
Operating illegal horse stable	1 st offense within a twelve month period	Court
	2 nd offense within a twelve month period	Court
Promoting animal fighting	1 st offense	Court
	2 nd offense	Court
Refusing to allow inspection	1 st offense within a twelve month period	Court
	2 nd offense within a twelve month period	Court
Tamper with animal trap/ removing animal from trap/interfering with ACO in setting/servicing trap	1 st offense within a twelve month period	Court
	2 nd offense within a twelve month period	Court
	3 rd offense within a twelve month period	Court
Unsanitary living condition- fowl/livestock	1 st offense within a twelve month period	\$25
	2 nd offense within a twelve month period	\$50
	3 rd offense within a twelve month period	Court
Unsanitary/inhumane living condition (any animal)	1 st offense within a twelve month period	\$50
	2 nd offense within a twelve month period	\$100
	3 rd offense within a twelve month period	Court
Dangerous and vicious animal at large	1 st offense	Court
	2 nd offense	Court
	3 rd offense	Court

C. That in addition to any offense not referred to in this section, any person so convicted of any other section of this Ordinance, separately and/or separately shall be fined the sum of not less than Fifty (\$50.00) Dollars or more than Five Hundred (\$500.00)

Dollars, and/or incarceration in the Daphne Municipal Jail for a period not to exceed 180 days or both, at the discretion of the Municipal Court Judge

SECTION XXII. DONATIONS TO ANIMAL SHELTERS

This section shall establish an additional procedure for donations to the City of Daphne Animal Shelter via online payment at the City of Daphne Animal Shelter website through generally accepted credit cards.

SECTION XXIII. VICIOUS ANIMALS

A. HARBORING

No person shall own or harbor any animal for the purpose of animal fighting, or train, torment, badger, bait or use any animal for the purpose of causing or encouraging said animal to attack human beings or domestic animals when not provoked.

No person shall sell, offer for sale, breed, buy or attempt to buy any Vicious Animal within the City.

B. REGISTRATION OF VICIOUS ANIMALS

The owner or person-in-charge of a Vicious Animal in the City shall annually register the same as to sex, breed, description, name and address of the owner or person-in-charge, and name of the Vicious Animal, if any, pursuant to the provisions of Section IV.

The owner or person in charge of a Vicious Animal shall at all times, keep the tag affixed to said animal. It shall be unlawful for any owner or person in charge of a Vicious Animal to fail to comply fully with all of the requirements of this section by failing to register such animal. It shall also be unlawful for any person, except the owner or person in charge and upon its own premises to remove a tag from a Vicious Animal tagged under the provisions of this section or to place a tag upon an animal for which said tag was not issued, to procure a tag from the City by fraud or misrepresentation, or to disfigure or alter the words or figures upon a tag.

C. INSURANCE

All owners or keepers of a vicious dog or dog presumed to be vicious, as previously defined or as shall be determined to be vicious after judicial review, shall provide proof of liability insurance in a single incident amount of at least \$100,000.00, specifically covering any damage or injury which may result from the ownership, keeping or maintenance of such animal.

The policy shall contain a provision requiring the City to be named as an additional insured for the sole purpose of being notified by the insurer of any cancellation, termination or expiration of the liability insurance policy.

D. INVESTIGATION OF VICIOUS DOGS

When any person claims that an animal is vicious, he or she shall make a sworn statement setting forth the name of the animal's owner, the location where the animal is being kept in the City, and the reason he or she believes the animal to be vicious.

The sworn statement will be delivered to the Animal Control Officer who will complete a vicious animal investigation.

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 or when the officer has other reason to believe a dog may be vicious.

Police officers and/or animal control officers shall be permitted to enter the exterior property where a vicious animal or animal presumed to be vicious is located for the purpose of investigating the allegation of viciousness. If the police officer and/or animal control officer has reason to believe an animal poses an immediate threat to the health, safety or welfare of the general public, the officer may seize the animal and impound the animal at the animal shelter pending completion of the investigation and hearing.

If an animal control officer or a law enforcement officer has investigated and determined that there exists probable cause to believe that an animal is potentially dangerous or vicious, the animal control officer, the chief officer of the public pound or animal control department or his or her immediate supervisor or the head of the local law enforcement agency, or his or her designee, shall determine whether or not the animal in question should be declared potentially dangerous or vicious.

Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis for the animal control officer or law enforcement officer to find probable cause shall be sworn to and verified by the complainant and shall be attached to the petition.

In the event the vicious animal investigation leads the Animal Control Officer to believe the allegation is unfounded, the Animal Control Officer shall advise the complainant of his findings and submit the results of the investigation to the Municipal Court and his animal control supervisor.

E. NOTICE, COURT HEARING, AND APPEAL

1. The owner or keeper of the animal shall be served with notice of the hearing and a copy of the petition, either personally or by first-class mail with return receipt requested. The hearing shall be held no less than ten (10) days nor more than twenty (20) days after such notice is mailed to the owner or keeper of the animal and shall be open to the public.
2. At such hearing all interested persons shall have the opportunity to present evidence on the issue of the animal's dangerousness. The court may admit all relevant evidence, including incident reports and the affidavits of witnesses, photographs and video tapes, limit the scope of discovery, and may shorten the time to produce records or witnesses.

In the event that the animal in question has caused injury to any person, the municipal judge may impound the animal, at the owner's expense, pending the hearing and determination of the complaint. If the court finds that the animal is potentially dangerous or vicious, it may make any orders authorized by this chapter or other laws, including but not limited to assessment of fines and costs as provided in this Code.

3. If a determination is made that the animal is potentially dangerous or vicious and no appeal is filed, the owner or keeper shall comply with the municipal court's order no later than fourteen (14) days following the rendering of the decision. If the owner or keeper of the animal contests the determination, he or she may, within fourteen (14) days of the municipal court's decision appeal the decision to the circuit court of the county. All filing fees and costs shall be paid by the owner or keeper of the animal. The owner or keeper of the animal shall serve notice upon the City that the appeal has been filed.
4. If an animal is found not to be vicious, the animal control authority shall still have the right, following due process, to later declare an animal to be vicious or to determine that the animal constitutes a threat to the public health and safety, for any subsequent actions of the animal.

F. REGULATION OF POTENTIALLY DANGEROUS OR VICIOUS ANIMALS

If it is determined at the hearing that the animal is dangerous or vicious, the Court may order the following:

1. Confinement:
 - a) Owners shall provide an exterior perimeter fence suitable to contain an average animal of the same type. The perimeter fence shall be constructed of chain link or wooden privacy type and shall be at least four (4) feet in height.

- b) Owners shall provide an additional fence or pen of adequate size inside the perimeter fence to humanely confine the vicious animal.
 - 1) This additional fence or pen may not share common fencing with the perimeter fence.
 - 2) This additional fence or pen must have secure sides and a secure top attached at all sides.
 - 3) All four sides of this additional fence or pen must be sunk at least two feet into the ground or the fence or pen must be built over a concrete pad to prevent the animal from digging out.
 - 4) The additional fence or pen must have an inward-opening gate and shall be kept locked at all times by pad lock or key lock except when tending to the care of the animal.
 - 5) The sides of this additional fence or pen shall be from ground to top at least twice the height of the animal, the height of the animal being measured from its shoulders.
 - 6) The additional fence or pen must not be positioned so that neighbors or passersby have access to the animal. It must be no less than twenty (20) feet from any neighboring property line.
 - 7) Signs shall be posted on each side of this additional fence or pen stating that a vicious animal is enclosed and shall specify the type of animal enclosed, i.e. "Vicious Dog". Signs must be printed and legible from 20 feet.
 - 8) The pen or structure must also provide the animal with protection from the elements and must at all times be kept in sanitary condition.

- c) Whenever the animal is outside either the additional fence or pen provided for this section:
 - 1) It must be attended by the owner;
 - 2) It must be restrained by a secure collar and leash or rope to no longer than eight (8) feet and of sufficient strength to prevent escape; and

3) It must be securely muzzled so as to effectively prevent such animal from biting another animal or person.

d) No vicious animal shall be allowed outside the owner's property except in emergencies or for normal or necessary medical or health related treatment.

2. Destruction of a Vicious Dog

In the event it is determined at the hearing that the release of the animal would create a significant threat to the public health, safety and welfare, the animal may be humanely destroyed by the Department of Animal Control.

3. When it is Determined that the Animal is not Dangerous or Vicious

In the event it is determined at the hearing that the animal is not vicious, the court shall inform the complainant of said findings.

G. MINOR OWNER OR KEEPER

In the event that the owner or keeper of a potentially dangerous or vicious animal is a minor, the parent or guardian of such minor shall be liable for all injuries and property damage sustained by any person or domestic animal caused by an unprovoked attack by such potentially dangerous or vicious animal.

H. PROCEDURE UPON LOSS, SALE OR TRANSFER OF ANIMAL

The owner or keeper of a potentially dangerous or vicious animal shall notify the department of animal control or the police department immediately if such potentially dangerous or vicious animal is loose or missing or if the potentially dangerous or vicious animal has attacked or wounded a human being or another animal. If the animal in question dies, or is sold, transferred, or permanently removed from the city or county where the owner or keeper resides, the owner of a potentially dangerous or vicious animal shall notify the animal control department of the changed condition and new location of the animal in writing within two (2) working days. If the owner or keeper of a potentially dangerous or vicious animal moves the animal to a different address within the city limits of the City, such owner or keeper shall notify the department of animal control of such fact and the new address within twenty-four (24) hours.

I. KEEPING POTENTIALLY DANGEROUS OR VICIOUS ANIMALS

It shall be unlawful for any owner, keeper or other person to be in violation of any provision of this chapter or any order of any court as provided in this chapter. Any owner or keeper found to be in violation of this section shall be guilty of a misdemeanor and shall be punishable as provided in Subsection J of this Section.

J. PENALTY FOR VIOLATION

The penalty for violation of any provision of this section shall be as follows:

1 st Offense	Not less than \$100.00 or more than \$350.00 and/or not to exceed 6 months in jail;
2 nd and Subsequent Offenses	Not less than \$350.00 or more than \$500.00 and/or not to exceed six (6) months in jail.

In addition, the Court shall assess the violator with any and all costs incurred for the impoundment and/or destruction of the dog.

K. CONFINEMENT GENERALLY

No owner, keeper or harbinger of an animal shall permit a vicious or dangerous dog to be kept on a chain, rope or other type of leash outside of its fence and/or pen unless it is under physical control of a leash. Such dogs may not be leashed or chained to inanimate objects such as trees, posts, buildings, etc. outside of the perimeter fence and/or pen. No vicious or dangerous dog may be kept on a porch, patio or in any other portion of the house or structure that would allow the dog to exit such building or structure on its own volition. In addition, no such animal may be kept in a house or structure where screen doors are the only obstacle preventing the dog from exiting the structure.

L. REGISTRATION OF VICIOUS DOGS

All dangerous or vicious dogs as defined herein or as found to be vicious after a Municipal Court hearing shall be registered on the City's website. Such registry shall include the address where the dog is located and identifying information on the dog, including two (2) identifying color photographs of the dog. The registry shall not contain the name or names of the owners or tenants at said location.

SECTION XXIV. DONATIONS TO ANIMAL SHELTERS

This section shall establish an additional procedure for donations to the City of Daphne Animal Shelter via online payment at the City of Daphne Animal Shelter website through generally accepted credit cards.

SECTION XXV. SEVERABILITY

The provisions of this Ordinance are severable. If any provision, section, paragraph, sentence or part thereof shall be held to be unconstitutional or invalid, such decision shall not affect or impair the remainder of this Ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence and part thereof separately and independently of each other.

SECTION XXVI. REPEALER

Ordinance Nos. 1998-33, 2001-02, 2003-11, 2007-27, 2010-56, 2010-67 and 2013-13 are hereby repealed in their entirety. All other City Ordinances or parts thereof in conflict with the provision of this Ordinance, in so far as they conflict, are hereby repealed.

SECTION XXVII. EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after the date of its approval by the City Council of the City of Daphne and publication as required by law.

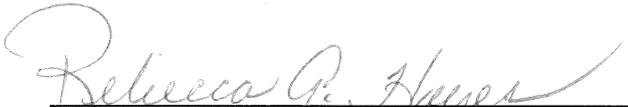
ADOPTED AND APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THIS THE 21ST DAY OF OCTOBER, 2013.

CITY OF DAPHNE



DANE HAYGOOD, MAYOR

ATTEST:



REBECCA A. HAYES, CITY CLERK