



City of Foley, AL

BALDWIN COUNTY, ALABAMA
TIM RUSSELL PROBATE JUDGE
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Ordinance: 15-1010-ORD.



File Number: 15-0215

Enactment Number: 15-1010-ORD.

Amending Ordinance 1143-10 to include off-leash activities.

WHEREAS the City Council of the City of Foley has determined that a new animal control ordinance is necessary to effectuate and implement more efficient means of animal control within the City of Foley; and

WHEREAS, the necessity for the regulation and control of vicious and potentially dangerous dogs and other animals is a city-wide problem, requiring city-wide regulation, and existing laws are inadequate to deal with the threat to public health and safety posed by vicious and potentially dangerous dogs and other animals, the animal control regulations for the City of Foley are hereby amended; and

WHEREAS the City Council of the City of Foley has determined that such an ordinance is in the interest of the public health, safety and welfare of the citizens of the City of Foley.

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

1. That the following revisions are hereby adopted and passed and are to be codified in Chapter 3 of the Code of the City of Foley in addition to the current provisions found therein:

SECTION I. FOLEY POLICE OFFICERS TO ENFORCE ORDINANCE

It shall be unlawful for any person to knowingly or willingly oppose or resist any police 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/her 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 the ordinance.

1. **AT LARGE** - Any animal which is not upon the property of its owner or person-in-charge and not carried by such person or kept in an effective enclosure

or under control by means of a restraining device to prevent its free movement so as to prevent said animal from freely charging or attacking a person or animal or to prevent the animal from roaming the city unattended with the exceptions of City of Foley designated off-leash areas that allow such off-leash activities.

2. 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 possible contact or saliva with the break or abrasion of the skin as determined by a licensed physician.

3. CAT - Shall mean and include all members of the feline family.

4. DOG - Shall mean and include all members of the domestic canine family.

5. DOGS PRESUMED TO BE VICIOUS - Any dog which is known by 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.

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

7. PERSON-IN-CHARGE - Any person who is in charge of, responsible for or keeps any animal and all of the responsible adult members of the household in which an animal is kept, allowed, or suffered to remain.

8. STRAY ANIMAL - Any animal running at large, the owner or person in charge of which is unknown.

9. VICIOUS DOG -a dog meeting any one or more of the following definitions:

- a) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings, domestic animals, dogs or cats;
- b) Any dog which, without provocation, has attacked or bitten a human being, domestic animal, cat or dog;
- c) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or
- d) Any dog that has, without provocation, approached a person in a terrorizing manner in an apparent attitude of attack.

The term "vicious" shall not apply to dogs used by law enforcement officials for legitimate law enforcement purposes or to dogs located at and in the care of licensed kennels, humane society shelters, animal control facilities, or veterinarians.

SECTION III. IDENTIFICATION AND INOCULATION TAG ON DOGS AND CATS REQUIRED

The owner or person-in-charge of every dog and/or cat male or female in the City which is more than three (3) months of age shall ensure that the animal bears a collar or harness showing name and address of the owner and containing a tag or other evidence of inoculation for rabies as issued in the current year by the department of state charged with such responsibility.

SECTION IV. DOGS AT LARGE; REGISTRATION OF VICIOUS DOGS; INSURANCE.

A. GENERAL PROHIBITION. No owner or person in charge of any dog shall permit or allow the dog to be at large at any time within the City of Foley with the exceptions of City of Foley designated off-leash areas that allow such off-leash activities.

B. OWNER LIABILITY. If the owner of any dog carelessly manages said dog or permits or allows said animal to be at large, and another person or entity suffers personal injury, property damage, or other injury, such dog owner shall be liable for the damages proximately caused by the dog.

C. REGISTRATION OF VICIOUS DOG. The owner or keeper of a vicious dog within the city limits of Foley shall annually register such animal with the Foley Police Department. The registration application shall contain the following information:

- Name of owner or keeper;
- Address and phone number of the owner or keeper;
- Breed, age, sex, color of animal;
- Any other identifying marks of the animal;
- Location where the animal is to be kept if not at the address of the Owner;
- Proof of vaccination for rabies within the preceding twelve (12) months;
- Two identification color photographs of the animal clearly showing the color, any markings and approximate size of the animal;
- Any other information the City may require.

The tag and certificate of registration or license shall be of such form and design and shall contain such information as the City shall prescribe and shall be issued to the owner or keeper upon payment of registration fee. The registration fee shall be \$500.00.

The owner or person in charge shall at all times, keep the tag affixed to said dog. It shall be unlawful for any owner or person in charge of an animal to fail to comply fully with all of the requirements of this section.

No replacement tag shall be issued unless the dog has been inoculated for rabies within twelve (12) months of the date of issuance of the duplicate tag.

D. INSURANCE. All owners or keepers of a vicious dog or dog presumed to be vicious 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.

E. PROMOTING ANIMAL FIGHTING. It shall be unlawful for any person to promote, permit, stage, hold, engage in, conduct, carry on or attend any game, exhibition, contest, fight or combat involving one or more animals or involving humans and animals. It shall be unlawful for any person to house, control or raise animal(s) for the purpose of animal fighting as prohibited in this section.

SECTION V. SEIZURE OF DOGS AT LARGE

A. POLICE OFFICE'S DUTY/PROCEDURE FOR SEIZURE OF DOGS AT LARGE

It shall be the duty of every police officer in the City, upon discovering a dog at large within the City, to immediately seize the dog and confine the animal and to make a reasonable effort to notify the owner with the exceptions of City of Foley designated off-leash areas that allow such off-leash activities. Any dog found unlawfully to be at large within the City is hereby declared a nuisance and shall be seized and confined and cared for in a humane manner for a period of not less than seven (7) days.

B. RETURN OF DOGS TO OWNER PERMITTED

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

C. ABATEMENT OF NUISANCE; ENFORCEMENT

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. Any Police Officer may take steps immediately to cure the situation to cause the nuisance 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.

D. HUMANE DESTRUCTION OF NUISANCE ANIMALS

After a dog has been confined for the period of time as otherwise provided in this Ordinance and if the owner or person entitled to possession fails to make application for release of such dog 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 is hereby declared a nuisance and a danger to the health, safety and welfare of the City; and the authorized Police Officer shall cause such dog to be humanely destroyed as herein provided; however, any dog 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.

E. HUMANE DESTRUCTION OF DISEASED ANIMALS - ACTS OF MERCY

Any confined dog that is injured or diseased, shall, as an act of mercy, be humanely destroyed immediately after inspection by a veterinarian, or by a Police 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 for a period of one (1) year.

F. MANNER OF DISPOSAL

A Police Officer, when required to dispose of dogs, shall do so by such process as is recognized by veterinary science as being a humane manner in which to destroy said dogs.

G. DISPOSAL OF NON-DOMESTICATED ANIMALS

Non-domesticated animals may be destroyed by Police Officers or by their direction, for public safety to prevent the spread of disease and acts of mercy.

H. INVESTIGATION OF VICIOUS DOGS OR DOGS PRESUMED TO BE VICIOUS

When any person claims that a dog is vicious or presumed to be vicious, he or she shall make a police report 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 police report will be delivered to a designated Police Officer who will complete a vicious dog investigation. Police Officers are authorized to initiate a vicious dog 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 shall be permitted to enter the exterior property where a vicious dog or a dog presumed to be vicious is located for the purpose of investigating the allegation of viciousness. If the police 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 a law enforcement officer has investigated and determined that there exists probable cause or believes that a dog is potentially dangerous or vicious, the officer shall petition the Municipal Court of the City of Foley for a hearing for the purpose of determining 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 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 dog investigation leads the police to believe the allegation is unfounded, the officer shall advise the complainant of his/her findings and submit the results of the investigation to the Municipal Court and his/her supervisor.

I. NOTICE, HEARING, AND APPEAL

1) The owner or keeper of the dog 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 dog's dangerousness, habits, propensities, and any other matters relevant to the applicability or enforcement of this Ordinance. 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 the punishment provided in this code.

3) After the hearing is conducted pursuant to this Section, the owner or keeper of the dog shall be notified in writing of the determination and orders issued, either personally or by first-class mail postage prepaid by the municipal court. 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) The Circuit Court may conduct a hearing de novo, and make its own determination as to potential danger and viciousness and make other orders authorized by this chapter, based upon the evidence presented. The court may admit all relevant evidence, including incident reports and the affidavits of witnesses, limit the scope of discovery, and may shorten the time to produce records or witnesses. If the court rules the dog to be potentially dangerous or vicious, compliance with the order shall begin within seven (7) days of the date of the court's determination.

J. REGULATION OF POTENTIALLY DANGEROUS OR VICIOUS DOGS

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

1) CONFINEMENT:

a) Owners shall provide an exterior perimeter fence suitable to contain the animal in question. 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 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 passers by have access to the animal. It must be at least 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; and
- (2) It must be restrained by a secure collar and leash or rope no longer than eight (8) feet with 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.

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.

3. WHEN IT IS DETERMINED THAT THE DOG IS NOT DANGEROUS OR VICIOUS

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

4. 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.

5. PERSON IN CHARGE OF DOG

In addition to the actual owner, any person who regularly feeds or provides for a dog not owned by him or her or who otherwise cares for the dog shall also be subject to this code as if they are the owner of the animal.

6. PROCEDURE UPON LOSS, SALE OR TRANSFER OF DOG

The owner or keeper of a potentially dangerous or vicious dog shall notify the Police Department within twelve (12) hours if such potentially dangerous or vicious dog is loose or missing or if the potentially dangerous or vicious dog has attacked or wounded a human being or another animal. If the dog 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 dog shall notify the Police 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 dog moves the dog to a different address within the city limits of the city, such owner or keeper shall notify the Police Department of such fact and the new address within twenty-four (24) hours.

7. KEEPING POTENTIALLY DANGEROUS OR VICIOUS DOGS

It is unlawful for any owner or keeper of a potentially dangerous or vicious dog 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 of a potentially dangerous or vicious dog found to be in violation of this section or any provision of this chapter shall be guilty of a misdemeanor and shall be punishable as provided in this Code.

8. PENALTY FOR VIOLATION

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

1st Offense -Not less than \$300.00 or more than \$500.00 and/or not to exceed 90 days 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.

9. CONFINEMENT GENERALLY

No owner, keeper or harborer shall permit a vicious or potentially dangerous dog to be kept on a chain, rope or other type of leash outside of its fence and/or pen unless he or she 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 potentially dangerous dogs 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 violation. 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.

10. COMPUTER REGISTRATION OF VICIOUS DOGS

All potentially 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 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 VI. 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 any amount equal to twice the State approved charge for inoculation, 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 Foley Police Department 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 Foley Police Department.

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, a Police 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.

SECTION VII. VACCINATION PERIOD

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

SECTION VIII. CONFINEMENT OF DOGS OR CATS IN HEAT

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 manner so as to avoid such disturbance.

SECTION IX. DUTY OF ANIMAL OWNERS

A. Duty to Restrain Dogs

It shall be the duty of every owner or person in charge of any dog to keep said animal under effective restraint, while the same is within the limits of the city, whether or not said dog is upon or away from his or her premises with the exceptions of City of Foley designated off-leash areas that allow such off-leash activities. It shall be unlawful for the owner or person in charge of any dog to fail to keep said animal under effective restraint. Proof that a dog 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. Prevent Damage to Property

It shall be unlawful for the owner or person in charge of any dog, cat or domesticated animal within the City of Foley 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. 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. A Police Officer shall notify the owner or person-in-charge or the premises to remove such mater or cure such condition within a reasonable time, to be fixed by the Police. If such condition is not remedied within the time so fixed, a Police 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. Where any dog, cat or domesticated animal is humanely tied to a runner, such runner shall be a minimum of twenty (20) feet long and the animal shall have a minimum shade area or structure that allows the animal to escape direct sunlight.

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 reasonable be expected to cause suffering, disability or death.

D. Right of Entry to Inspect

A Foley Police 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 X. 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 own premises or residence, or the residence of which he is in charge, may have such animal confined by the Police Department as an at large animal or stray.

SECTION XI. HUMANE TRAPS

The Police Department 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 therefore.

It shall be the duty of the Police Department to check such traps daily and remove captured animals there from so they shall be disposed or treated as otherwise provided herein.

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 Police Officer in setting or servicing any such trap.

SECTION XII. CRUELTY TO ANIMALS

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 a dog, cat or domesticated animal, or causes or procures a dog, cat, or domesticated animal 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.

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

SECTION XIII. 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 Police Department may take up and confine any such animal.

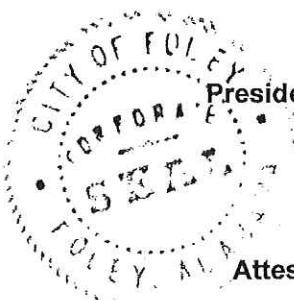
SECTION XIV. CITATION

When any animal is found by the Police Department to be in violation of any provision of this Ordinance, and the person or persons responsible becomes known, a citation, unless otherwise stated, may be issued 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 a Police Officer.

2. That all ordinances and codes in direct conflict with one or more provisions of this ordinance are hereby repealed, but only to the extent of such direct conflict.

3. That if any provision or portion of this ordinance is found or declared to be invalid or unenforceable, such provision shall automatically be deemed severed and struck from this ordinance, and the remainder of this ordinance shall otherwise remain in full force and effect.

PASSED, APPROVED AND ADOPTED this 21st day of May, 2015.



President's Signature

A handwritten signature in black ink, appearing to read "J.W. Tasker".

Date

5-23-15

Attest by City Clerk

A handwritten signature in black ink, appearing to read "Victoria Southern".

Date

5-23-15

Mayor's Signature

A handwritten signature in black ink, appearing to read "J.W. Tasker".

Date

5/27/2015

"I certify that the foregoing Ordinance was published in the Foley Onlooker, a newspaper of general circulation in the City of Foley, in its issue of Wednesday, June 3, 2015."

A handwritten signature in black ink, appearing to read "Victoria Southern".

Victoria Southern, CMC
City Clerk

CITY OF FOLEY

ORDINANCE NO. 1143-10

AN ORDINANCE REGULATING THE KEEPING OF DOGS, CATS, AND DOMESTICATED ANIMALS WITHIN THE CITY OF FOLEY, ALABAMA

WHEREAS the City Council of the City of Foley has determined that a new animal control ordinance is necessary to effectuate and implement more efficient means of animal control within the City of Foley; and

WHEREAS, the necessity for the regulation and control of vicious and potentially dangerous dogs and other animals is a city-wide problem, requiring city-wide regulation, and existing laws are inadequate to deal with the threat to public health and safety posed by vicious and potentially dangerous dogs and other animals, the animal control regulations for the City of Foley are hereby amended; and

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1. **AT LARGE** - Any animal which is not upon the property of its owner or person-in-charge and not carried by such person or kept in an effective enclosure or under control by means of a restraining device to prevent its free movement so as to prevent said animal from freely charging or attacking a person or animal or to prevent the animal from roaming the city unattended with the exceptions of City of Foley designated off-leash areas that allow such off-leash activities.

2. **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 possible contact or saliva with the break or abrasion of the skin as determined by a licensed physician.

3. **CAT** - Shall mean and include all members of the feline family.

4. DOG - Shall mean and include all members of the domestic canine family.
5. DOGS PRESUMED TO BE VICIOUS - Any dog which is known by owner or person in charge to habitually chase moving vehicles or chase 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.
6. DOMESTICATED ANIMAL - Shall mean, but is not limited to rabbits, squirrels, raccoons, pot-bellied pigs or any other animal used as a pet.
7. PERSON-IN-CHARGE - Any person who is in charge of, responsible for or keeps any animal and all of the responsible adult members of the household in which an animal is kept, allowed, or suffered to remain.
8. STRAY ANIMAL - Any animal running at large, the owner or person in charge of which is unknown.
9. VICIOUS DOG - a dog meeting any one or more of the following definitions:
 - a) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings, domestic animals, dogs or cats;
 - b) Any dog which, without provocation, has attacked or bitten a human being, domestic animal, cat or dog;
 - c) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or
 - d) Any dog that has, without provocation, approached a person in a terrorizing manner in an apparent attitude of attack.

The term "vicious" shall not apply to dogs used by law enforcement officials for legitimate law enforcement purposes or to dogs located at and in the care of licensed kennels, humane society shelters, animal control facilities, or veterinarians.

SECTION III. IDENTIFICATION AND INOCULATION TAG ON DOGS AND CATS REQUIRED

The owner or person-in-charge of every dog and/or cat male or female in the City which is more than three (3) months of age shall ensure that the animal bears a collar or harness showing name and address of the owner and containing a tag or other evidence of inoculation for rabies as issued in the current year by the department of state charged with such responsibility.

SECTION IV. DOGS AT LARGE; REGISTRATION OF VICIOUS DOGS; INSURANCE.

A. GENERAL PROHIBITION. No owner or person in charge of any dog shall permit or allow the dog to be at large at any time within the City of Foley with the exceptions of City of Foley designated off-leash areas that allow such off-leash activities.

B. OWNER LIABILITY. If the owner of any dog carelessly manages said dog or permits or allows said animal to be at large, and another person or entity suffers personal injury, property damage, or other injury, such dog owner shall be liable for the damages proximately caused by the dog.

C. REGISTRATION OF VICIOUS DOG. The owner or keeper of a vicious dog within the city limits of Foley shall annually register such animal with the Foley Police Department. The registration application shall contain the following information:

Name of owner or keeper;
Address and phone number of the owner or keeper;
Breed, age, sex, color of animal;

Any other identifying marks of the animal;
Location where the animal is to be kept if not at the address of the Owner;
Proof of vaccination for rabies within the preceding twelve (12) months;
Two identification color photographs of the animal clearly showing the color, any markings and approximate size of the animal;
Any other information the City may require.

The tag and certificate of registration or license shall be of such form and design and shall contain such information as the City shall prescribe and shall be issued to the owner or keeper upon payment of registration fee. The registration fee shall be \$500.00.

The owner or person in charge shall at all times, keep the tag affixed to said dog. It shall be unlawful for any owner or person in charge of an animal to fail to comply fully with all of the requirements of this section.

No replacement tag shall be issued unless the dog has been inoculated for rabies within twelve (12) months of the date of issuance of the duplicate tag.

D. INSURANCE. All owners or keepers of a vicious dog or dog presumed to be vicious 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.

E. PROMOTING ANIMAL FIGHTING. It shall be unlawful for any person to promote, permit, stage, hold, engage in, conduct, carry on or attend any game, exhibition, contest, fight or combat involving one or more animals or involving humans and animals. It shall be unlawful for any person to house, control or raise animal(s) for the purpose of animal fighting as prohibited in this section.

SECTION V. SEIZURE OF DOGS AT LARGE

A. POLICE OFFICE'S DUTY/PROCEDURE FOR SEIZURE OF DOGS AT LARGE

It shall be the duty of every police officer in the City, upon discovering a dog at large within the City, to immediately seize the dog and confine the animal and to make a reasonable effort to notify the owner with the exceptions of City of Foley designated off-leash areas that allow such off-leash activities. Any dog found unlawfully to be at large within the City is hereby declared a nuisance and shall be seized and confined and cared for in a humane manner for a period of not less than seven (7) days.

B. RETURN OF DOGS TO OWNER PERMITTED

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

C. ABATEMENT OF NUISANCE; ENFORCEMENT

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. Any Police Officer may take steps immediately to cure the situation to cause the nuisance 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.

D. HUMANE DESTRUCTION OF NUISANCE ANIMALS

After a dog has been confined for the period of time as otherwise provided in this Ordinance and if the owner or person entitled to possession fails to make application for release of such dog 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 is hereby declared a nuisance and a danger to the health, safety and welfare of the City; and the authorized Police Officer shall cause such dog to be humanely destroyed as herein provided; however, any dog 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.

E. HUMANE DESTRUCTION OF DISEASED ANIMALS – ACTS OF MERCY

Any confined dog that is injured or diseased, shall, as an act of mercy, be humanely destroyed immediately after inspection by a veterinarian, or by a Police 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 for a period of one (1) year.

F. MANNER OF DISPOSAL

A Police Officer, when required to dispose of dogs, shall do so by such process as is recognized by veterinary science as being a humane manner in which to destroy said dogs.

G. DISPOSAL OF NON-DOMESTICATED ANIMALS

Non-domesticated animals may be destroyed by Police Officers or by their direction, for public safety to prevent the spread of disease and acts of mercy.

H. INVESTIGATION OF VICIOUS DOGS OR DOGS PRESUMED TO BE VICIOUS

When any person claims that a dog is vicious or presumed to be vicious, he or she shall make a police report 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 police report will be delivered to a designated Police Officer who will complete a vicious dog investigation. Police Officers are authorized to initiate a vicious dog 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 shall be permitted to enter the exterior property where a vicious dog or a dog presumed to be vicious is located for the purpose of investigating the allegation of viciousness. If the police 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 a law enforcement officer has investigated and determined that there exists probable cause or believes that a dog is potentially dangerous or vicious, the officer shall petition the Municipal Court of the City of Foley for a hearing for the purpose of determining 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 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 dog investigation leads the police to believe the allegation is unfounded, the officer shall advise the complainant of his/her findings and submit the results of the investigation to the Municipal Court and his/her supervisor.

I. NOTICE, HEARING, AND APPEAL

1) The owner or keeper of the dog 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 dog's dangerousness, habits, propensities, and any other matters relevant to the applicability or enforcement of this Ordinance. 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 the punishment provided in this code.

3) After the hearing is conducted pursuant to this Section, the owner or keeper of the dog shall be notified in writing of the determination and orders issued, either personally or by first-class mail postage prepaid by the municipal court. 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) The Circuit Court may conduct a hearing de novo, and make its own determination as to potential danger and viciousness and make other orders authorized by this chapter, based upon the evidence presented. The court may admit all relevant evidence, including incident reports and the affidavits of witnesses, limit the scope of discovery, and may shorten the time to produce records or witnesses. If the court rules the dog to be potentially dangerous or vicious, compliance with the order shall begin within seven (7) days of the date of the court's determination.

J. REGULATION OF POTENTIALLY DANGEROUS OR VICIOUS DOGS

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

1) CONFINEMENT:

- a) Owners shall provide an exterior perimeter fence suitable to contain the animal in question. 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 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 passers by have access to the animal. It must be at least 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; and

(2) It must be restrained by a secure collar and leash or rope [no longer than eight (8) feet] with 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.

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.

3. WHEN IT IS DETERMINED THAT THE DOG IS NOT DANGEROUS OR VIOLENT

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

4. 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.

5. PERSON IN CHARGE OF DOG

In addition to the actual owner, any person who regularly feeds or provides for a dog not owned by him or her or who otherwise cares for the dog shall also be subject to this code as if they are the owner of the animal.

6. PROCEDURE UPON LOSS, SALE OR TRANSFER OF DOG

The owner or keeper of a potentially dangerous or vicious dog shall notify the Police Department within twelve (12) hours if such potentially dangerous or vicious dog is loose or missing or if the potentially dangerous or vicious dog has attacked or wounded a human being or another animal. If the dog 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 dog shall notify the Police 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 dog moves the dog to a different address within the city limits of the city, such owner or keeper shall notify the Police Department of such fact and the new address within twenty-four (24) hours.

7. KEEPING POTENTIALLY DANGEROUS OR VICIOUS DOGS

It is unlawful for any owner or keeper of a potentially dangerous or vicious dog 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 of a potentially dangerous or vicious dog found to be in violation of this section or any provision of this chapter shall be guilty of a misdemeanor and shall be punishable as provided in this Code.

8. PENALTY FOR VIOLATION

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

1 st Offense	-Not less than \$300.00 or more than \$500.00 and/or not to exceed 90 days in jail;
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2nd and Subsequent Offenses -\$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.

9. CONFINEMENT GENERALLY

No owner, keeper or harborer shall permit a vicious or potentially dangerous dog to be kept on a chain, rope or other type of leash outside of its fence and/or pen unless he or she 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 potentially dangerous dogs 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 violation. 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.

10. COMPUTER REGISTRATION OF VICIOUS DOGS

All potentially 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 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 VI. 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 any amount equal to twice the State approved charge for inoculation, 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 Foley Police Department 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 Foley Police Department.
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, a Police 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.

SECTION VII. VACCINATION PERIOD

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

SECTION VIII. CONFINEMENT OF DOGS OR CATS IN HEAT

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 manner so as to avoid such disturbance.

SECTION IX. DUTY OF ANIMAL OWNERS

A. Duty to Restrain Dogs

It shall be the duty of every owner or person in charge of any dog to keep said animal under effective restraint, while the same is within the limits of the city, whether or not said dog is upon or away from his or her premises with the exceptions of City of Foley designated off-leash areas that allow such off-leash activities. It shall be unlawful for the owner or person in charge of any dog to fail to keep said animal under effective restraint. Proof that a dog 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. Prevent Damage to Property

It shall be unlawful for the owner or person in charge of any dog, cat or domesticated animal within the City of Foley 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. 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. A Police Officer shall notify the owner or person-in-charge or the premises to remove such mater or cure such condition within a reasonable time, to be fixed by the Police. If such condition is not remedied within the time so fixed, a Police 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. Where any dog, cat or domesticated animal is humanely tied to a runner, such runner shall be a minimum of twenty (20) feet long and the animal shall have a minimum shade area or structure that allows the animal to escape direct sunlight.
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 reasonable be expected to cause suffering, disability or death.

D. Right of Entry to Inspect

A Foley Police 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 X. 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 own premises or residence, or the residence of which he is in charge, may have such animal confined by the Police Department as an at large animal or stray.

SECTION XI. HUMANE TRAPS

The Police Department 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 therefore.

It shall be the duty of the Police Department to check such traps daily and remove captured animals there from so they shall be disposed or treated as otherwise provided herein.

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 Police Officer in setting or servicing any such trap.

SECTION XII. CRUELTY TO ANIMALS

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 a dog, cat or domesticated animal, or causes or procures a dog, cat, or domesticated animal 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.

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

SECTION XIII. 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 Police Department may take up and confine any such animal.

SECTION XIV. CITATION

When any animal is found by the Police Department to be in violation of any provision of this Ordinance, and the person or persons responsible becomes known, a citation, unless otherwise stated, may be issued 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 a Police Officer.

2. That all ordinances and codes in direct conflict with one or more provisions of this ordinance are hereby repealed, but only to the extent of such direct conflict.

3. That if any provision or portion of this ordinance is found or declared to be invalid or unenforceable, such provision shall automatically be deemed severed and struck from this ordinance, and the remainder of this ordinance shall otherwise remain in full force and effect.

Done this 20th day of September, 2010.

John E. Koniar, Mayor

ATTEST:

A. Perry Wilbourne
City Clerk/Administrator

"I certify that the foregoing Ordinance was published in the Foley Onlooker, a newspaper of general circulation in the City of Foley, in its issue of _____.

A. Perry Wilbourne
City Clerk/Administrator