

Passed on Tuesday, May 9th, 2023
ORDINANCE NO. 2023-01

AN ORDINANCE TO REGULATE AND PREVENT THE RUNNING AT LARGE OF VICIOUS ANIMALS UPON THE PUBLIC STREETS AND OTHER PUBLIC PROPERTY WITHIN THE TOWN OF MUNFORD, ALABAMA; TO DECLARE THE RUNNING AT LARGE OF VICIOUS ANIMALS ON THE PUBLIC STREETS AND OTHER PUBLIC PROPERTY IN THE TOWN OF MUNFORD TO BE PUBLIC NUISANCE; TO PROVIDE A PROCEDURE FOR THE ABATEMENT OF SUCH NUISANCE; TO PROVIDE FOR THE IMPOUNDING AND DISPOSITION OF SUCH ANIMALS IN VIOLATION HEREOF; AND TO PROVIDE PENALTIES FOR THE VIOLATION HEREOF.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MUNFORD, ALABAMA, AS FOLLOWS:

SECTION 1. DEFINITIONS.

For the purpose of this Ordinance, the following terms shall be defined as follows:

Animal: Every nonhuman living creature, domestic or wild.

Animal Control Facility: Any facility maintained by the Town and any facility maintained by a municipal agency as approved by the Town Council for the confinement, care, control or disposition of animals that come into its custody.

Animal Control Officer: Any person employed by the Town and assigned to the Animal Control Department to supervise the operation of the Town Animal Control Facility and/or and to perform the other duties as are required for the enforcement of the provisions of this Ordinance. The Animal Control Officer shall have all powers, authorities and duties necessary and incident to the enforcement of the provisions of this Ordinance.

At Large: An animal shall be deemed to be at large when it is not under restraint by its owner or a competent person having charge or control of it, or it is not confined within a wall, fence, vehicle, or other enclosure in such manner as to effectively prevent its escape.

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.

Town: Town of Munford, Alabama.

Town Council: The duly elected Town Council of the Town of Munford, Alabama.

Dog: Any members of the canine family.

Owner or person in charge: Any person having a right of property in an animal or who has care of it, acts as the animal's custodian, or keeps it, allows it food and/or refuge on or about any premises occupied by such person or harbors it in any manner.

Person: Any human being or artificial being.

State: The State of Alabama.

Under Restraint: Control of any animal by leash, cord, chain or similar means in the hands of the owner or person in charge, or tethered in a humane manner so as to remain upon private property and in the presence of the owner or person in charge of such animal.

Vicious animal: Shall mean any animal with a known history of (a) attack on a person or animal unprovoked; (b) chasing humans; (c) approaching or threatening persons in public areas with an apparent attitude of attack; (d) causing injury to or otherwise endangering the safety of humans or domestic animals; or (f) found to attack a human being or domestic animal without provocation, whether or not such animal has previously bitten or attacked a person or domestic animal. A vicious animal does not include: an animal assisting a peace officer engaged in law enforcement duty, or an animal that attacks or inflicts bites upon a trespasser of a fully enclosed building or enclosed within a wall or fence of the premises owned or occupied by the owner or person in charge of the animal.

SECTION 2. ANIMALS PRESUMED TO BE VICIOUS.

A. Any animal which is known by the owner or person in charge to be on the public streets and other public ways of the Town, whether or not such animal has actually bitten or attacked a human being or other animal, shall be presumed to be vicious. The presumption provided for herein is a rebuttable presumption and no arrest made pursuant to this Ordinance, nor any prosecution shall be commenced except upon affidavit as provided in Section B.

B. When any person claims that an animal is vicious, that person shall make a sworn statement before an officer authorized to administer oaths employed by the Town, and such sworn statement shall set forth the specific circumstances for believing the animal to be vicious. The sworn statement shall be delivered to the Animal Control Officer. Upon receipt of the sworn statement, the Animal Control Officer shall make an immediate investigation of the circumstances alleged in the affidavit. Upon completion of the investigation, if in the opinion of the Animal Control Officer, the animal is determined to be vicious, and the Animal Control Officer makes a further finding that the incident is the first incident or indication of viciousness on the part of the animal, the Animal Control Officer shall order the owner or person in charge to confine the animal. Upon receipt of the Order of Confinement, the owner or person in charge may file a notice of appeal with the Municipal Court of the Town within five (5) days from the date of the order requesting a finding by the Municipal Court Judge of whether the animal is vicious. Upon a finding by the Municipal Court Judge that the animal is vicious, the animal shall be confined as hereinafter provided. Upon a finding by the Municipal Court Judge that the animal is not vicious, then the Order of Confinement shall be quashed.

C. Confinement Required.

It shall be unlawful for the owner or person in charge of a vicious animal to keep in the Town a vicious animal unless such animal is securely confined, bound or adequately leashed in such manner as to prevent such animal from escaping, biting or attacking a human being or other animal. Any vicious animal found to have bitten or attacked a human being or other animal in the Town shall be removed from the Town by the owner or person in charge within ten (10) days from the time of the bite or attack, and the owner or person in charge of such vicious animal shall report the removal of the animal to the Animal Control Officer or the Police Department of the Town declaring the date of removal and the location to which the vicious animal has been removed.

D. Enclosure for Vicious Animals – Posting of Premises.

Whenever a vicious animal is permitted to run at large within a wall, fence or other enclosure of the premises of the owner or person in charge, it shall be the duty of the owner or person in charge of such vicious animal to give public notice or warning that such animal is at large within such enclosure. Notice shall be made by conspicuously posting a written or printed notice at every unlocked entrance to such enclosure in lettering of sufficient size that it may be easily read from a distance of ten (10) feet.

E. Registration.

An owner or person in charge of a vicious animal shall register said animal with the Animal Control Facility in writing and upon a form furnished by the Animal Control Facility. The application shall be verified by the person who desires to keep, harbor, own, or in any way possess a vicious animal and shall set forth the following:

- (1) Name, address, and telephone number of the applicant.
- (2) The applicant's interest in owning or keeping such vicious animal.
- (3) The number and description of each animal kept that is deemed vicious.
- (4) The confinement and housing arrangement for all vicious animals with particular details to safety or structure locks, fencing and other constraints.
- (5) Safety precautions to be taken by the applicant to guarantee the safety of the citizens of the Town and other animals.
- (6) Color frontal photograph and color side photograph of the vicious animals. Any owner or person in charge of a registered vicious animal shall within ten (10) days of the effective date of this ordinance provide to the Animal Control Department two (2) color photographs of the registered animal clearly showing the color and approximate size of the animal. The photographs must dimensionally be at least four (4) inches by six (6) inches in size. The animal must be the primary object shown in the photograph.

(7) Payment of a registration fee to the Animal Control Facility as hereinafter provided.

SECTION 3. SCHEDULE OF FINES AND FEES.

A. Fee for Registration of Vicious Animal - Any owner or person in charge of any animal known to be vicious is required to register the animal with the Animal Control Officer. An application of Fifty and no/100 (\$50.00) Dollars shall accompany the application to cover the cost of processing the application.

B. Schedule of Fines for Violation of this Ordinance - The schedule of fines for violation of this Ordinance shall be as follows:

1. For the first conviction during any twelve (12) month period the fine shall be Fifty and no/100 (\$50.00) Dollars;
2. For a second conviction during any twelve (12) month period the fine shall be One Hundred and no/100 (\$100.00) Dollars;
3. For a third or subsequent conviction during any twelve (12) month period the fine shall be Three Hundred and no/100 (\$300.00) Dollars.

SECTION 4. VIOLATION OR ORDINANCE.

Any person may cause a complaint to be filed in the Municipal Court of the Town of Munford alleging a violation of any provision of this Ordinance against any person alleged to be in violation of this Ordinance, which said complaint shall be heard and tried in the Municipal Court of the Town of Munford in the same manner as other violations of Municipal Ordinances of this Town. Any person found to be in violation of any of the provisions of this Ordinance by the Municipal Court of the Town of Munford shall, upon conviction, be deemed guilty of a misdemeanor and shall be fined as provided in Section 3.

SECTION 5. SEVERABILITY.

All sections of this Ordinance are hereby declared to be severable; and if any word, phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or invalid by any Court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 6. ADOPTION AND EFFECTIVE DATE.

This Ordinance shall take effect immediately upon its passage and publication as provided by law. Adopted and approved this the _____ day of _____, 2023.

Council Member

Council Member

Council Member

Council Member

Council Member

APPROVED this _____ day of _____, 2023.

MAYOR

APPROVED and ATTESTED this _____ day of _____, 2023.

TOWN CLERK