

ORDINANCE NUMBER 2012-

“ANIMALS”

At Large, Vicious, Ferocious, or Dangerous Animals

ARTICLE I

WHEREAS, the City Council finds that the unrestricted presence of at large, vicious, ferocious, or dangerous animals within the City of Centreville constitutes a clear and present danger to the public health, safety, and welfare of the citizens of the City of Centreville; and,

WHEREAS, the City Council determines that the public health, safety, peace and welfare of the citizens of the City of Centreville requires the establishment of regulations: (1) as to the regulation of at large animals, (2) as to the ownership, and harboring of vicious, ferocious or dangerous animals; (3) as to the eradication of such animals; and (4) to provide the procedures necessary to protect the public from the dangers of such animals.

SECTION 1.1

DEFINITION OF AT LARGE ANIMAL

For the purposes of this section the term **at large animal** means any animal which is not upon the property of its owner or person in charge and not restrained 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 roaming the private property of others or the public property of the City.

SECTION 1.2

DEFINITION OF VICIOUS, FEROCIOUS OR DANGEROUS ANIMAL

For the purposes of this section, the term **vicious, ferocious or dangerous animal** means any large breed animal, except one assisting a police officer in law enforcement duties, which demonstrates, or has in the past demonstrated, any of the following types of behavior:

- (a) Any animal that has been determined by the municipal court to be vicious, ferocious, or dangerous.
- (b) Any animal that is known to the owner of said animal to exhibit vicious, ferocious, or dangerous behaviors.
- (c) Any animal that is known to have bitten or attacked a person or other animal without provocation or cause; or which chases or runs after any person or vehicle in or upon which a person is riding or which attempts to bite or attack a person or other animal without provocation.
- (d) Any animal that commits an attack or an act of open aggression, without provocation, which requires a defensive action by any person in order to prevent bodily injury or property damage when such person is conducting himself peacefully and lawfully.
- (e) Any animal that commits an attack or an act of open aggression

- without provocation which results in property damage or results in an injury to a person when such person is conducting himself peacefully and lawfully.
- (f) Any animal that commits a physical attack, without provocation, on another domestic animal or livestock which occurs on property other than that of the owner of the attacking or aggressor animal.
 - (g) Any animal that, where an opportunity exists, exhibits any behavior that constitutes a threat of bodily harm to a person when such person is conducting himself peacefully and lawfully.
 - (h) For the purposes of this section, a person is conducting himself peacefully and lawfully whenever he or she is on public property or he or she is upon the private property of an owner of the dog or when he/she is on such property in the performance of any duty imposed on such person by federal, state or local law, or the postal regulations of the United States, or when he is on such property upon an express or implied invitation issued by the owner or person in control of such property..

ARTICLE II

PROHIBITION AND RESTRAINT

SECTION 2.1

PROHIBITION OF *AT LARGE* ANIMALS

It shall be the duty of every owner or person in charge of any animal to keep said animal under effective restraint while the animal is within the limits of the city, whether or not said animal is upon or away from the owner's premises.

No owner of any animal shall permit or allow any animal to enter the public domain or to depart from the private property of the owner unless said animal is properly leashed, housed, or restrained in such a manner as to prevent unwanted, undesirable, or uncomfortable contact with any member of the public that is not a member of the immediate family of the animal owner.

For the purposes of this section if the animal is owned by a minor the parent(s) or the legal guardian/custodian of the animal owning minor is the responsible party for the provisions and the enforcement of this article.

Proof that an animal was not properly restrained, whether on or off the premises of the owner shall be prima facie evidence of a violation. All animals are subject to the provisions of this section.

SECTION 2.2

RESTRAINT OF VICIOUS, DANGEROUS OR FEROCIOUS ANIMALS

LEASH AND MUZZLE

No person shall permit a vicious, ferocious or dangerous animal to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four (4) feet in length and is muzzled by a muzzling device sufficient to prevent such animal from biting persons or other animals. No person shall permit a vicious, ferocious or dangerous animal to be kept on a chain, rope or other type of leash outside its kennel or pen unless such a person is in physical control of the leash. Such animals may not be leashed to inanimate objects such as trees, posts, buildings, etc.

SECTION 2.3

CONFINEMENT GENERALLY

(a) All adjudicated or known to be vicious, ferocious or dangerous animals shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in Article 2 of this ordinance.

(b) Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine vicious, ferocious or dangerous dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must be secured to a concrete slab floor or the sides of the

pen must be embedded in the ground no less than one (1) foot. Such structure must not be positioned so that neighbors and passers by have access to the dog and must be located no less than twenty (20) feet from any adjoining property or a public right of way.

(c) In addition to confinement structure required under section (b) above, an exterior perimeter fence shall be provided. The perimeter fence shall be a chain link fence or a wooden privacy type fence and shall be at least four (4) feet in height, but no less than twice the height of the dog to be confined therein, the height being measured from the ground to its shoulder.

(d) All structures and fences erected to house vicious, ferocious or dangerous dogs must comply with all zoning and building regulations of the city. All such structures must be ventilated and kept in a clean, sanitary, and structurally sound condition.

(e) No vicious, ferocious or dangerous animal shall be allowed outside of the property of its owner, keeper, or harbinger except in emergencies or for normal or necessary medical or health related treatment.

SECTION 2.4

CONFINEMENT INDOORS

No vicious, ferocious or dangerous animal may be kept on a porch, patio or in any portion of a house or structure that would allow the animal to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when screen doors are the only obstacle preventing the animal from exiting the structure.

SECTION 2.5

REQUIRED SIGNS

All owners, keepers or harborers of vicious, ferocious or dangerous animals within the city shall display in a prominent place on their premises a sign easily readable by the public using the words "Dangerous Dog" or "Dangerous Animal." In addition, a similar sign is required to be posted on all four sides of the kennel or pen of such animal.

ARTICLE III

FAILURE TO COMPLY

It shall be unlawful for the owner of an animal to allow the animal to leave his/her private property and to enter onto the property of others or to enter into the public domain unless said animal is properly leashed or otherwise restrained. Any animal who is not properly leashed or otherwise unrestrained shall be adjudged to be an "At Large" animal.

It shall be unlawful for the owner, keeper or harborer of a vicious, ferocious or dangerous animal to fail to comply with the animal restraint requirements, conditions and public notice requirements set forth in this ordinance.

ARTICLE IV
DUE PROCESS

SECTION 4.1
DETERMINATION BY COURT

Upon the sworn complaint of any person, including any police officer or animal control officer, the municipal court may, after notice is accomplished by service of legal process upon the owner of such animal, served upon the person of an owner by an officer of the law, of the time and place given to the owner of the dog, a hearing will be held to determine whether an animal is at large, vicious, ferocious or dangerous. Said hearing should be set within a reasonable time after personal service has been perfected and the owner should have a right of appeal to a circuit court for any finding entered by the municipal court.

The burden of proof for a finding of any violation of this ordinance and the imposition of any fine or penalty shall rest upon the complaining citizen. A true finding shall constitute a Violation or a Misdemeanor as provided herein.

In making a determination whether an animal is vicious, ferocious, or dangerous, the municipal court shall include the following considerations:

- (a) The seriousness of any attack or wound inflicted by the animal.
- (b) The past history of wounds and damage inflicted by the animal.
- (c) The potential propensity of the animal to inflict wounds or damage in the future.

- (d) The conditions existing when the animal inflicted any wound damage.
- (e) The conditions under which the animal is kept and maintained.

If an Owner of a dangerous, vicious, or ferocious animal is found to have violated the provisions of this article then he shall be guilty of a Misdemeanor Offense. The animal owner shall be liable for the costs of prosecution, and for impound costs of an animal while due process rights are exercised. The animal owner shall be liable for any actual damages caused by a dangerous, vicious, or ferocious animal to persons or property.

SECTION 4.2

COURT ORDER UPON DETERMINATION OF DANGEROUS OR VICIOUS ANIMAL

If the municipal court determines that the animal is vicious, ferocious or dangerous, the municipal court may, in addition to the above provisions, issue an order directing the owner to cause the animal to be destroyed, or in lieu of destruction, the court may permit the confinement of the animal in a manner and location that the court deems appropriate, but in no event shall such confinement be less restrictive than that required by the provisions of this ordinance.

ARTICLE V

PENALTY FOR VIOLATION

SECTION 5.1

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

FOR OWNING OR KEEPING AN AT LARGE ANIMAL

1ST OFFENSE NOT MORE THAN \$25

Violation

2ND OFFENSE NOT MORE THAN \$50

Violation

3RD OFFENSE

Violation NOT MORE THAN \$100

FOR FAILURE TO PROPERLY HOUSE OR RESTRAIN A VICIOUS, FEROCIOUS,

OR DANGEROUS ANIMAL

1ST OFFENSE NOT MORE THAN \$100

C Misdemeanor NOT MORE THAN 10 DAYS INCARCERATION

2ND OFFENSE NOT MORE THAN \$300

B Misdemeanor NOT MORE THAN 30 DAYS INCARCERATION

3RD OFFENSE NOT MORE THAN \$500

A Misdemeanor NOT MORE THAN 180 DAYS INCARCERATION

FOR FAILURE TO POST PUBLIC WARNING OR NOTICES AS REQUIRED UNDER
THIS ARTICLE

1ST OFFENSE \$25

VIOLATION

2ND OFFENSE \$50

VIOLATION

3RD OFFENSE \$100

C MISDEMEANOR NOT MORE THAN 10 DAYS INCARCERATION

SECTION 5.2

IMPOUNDMENT PENDING HEARING OR FOR PUBLIC SAFETY

A law enforcement officer may impound in a suitable pound or enclosure provided or contracted for by the city any animal for which a sworn complaint has been filed pursuant to Article IV hereof OR any at large animal that cannot be returned to its owner or the owner cannot be identified, and the animal posts a threat to the public health or welfare. Any and all expenses associated with said impoundment shall be paid by the owner of the animal.

SECTION 5.3

LETHAL ACTION

In the absence of a sworn complaint, if any animal, in the opinion of any sworn police officer presents a clear, present, and imminent danger to the public health or safety of the citizens, it shall be the duty of said police officer to protect the safety of the public by the means necessary to protect said public including the taking of lethal action against a vicious or dangerous animal.

ARTICLE VI
INNOCULATIONS

SECTION 6.1
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.

SECTION 6.2
PENALTY

Any owner or person in charge of an animal and in violation of the inoculation requirement 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 inoculation. In order to comply under this Ordinance, the vaccination of any dog or cat shall be accomplished by a licensed veterinarian.

ARTICLE VII
SECTION 7.1
SEVERABILITY

If any section, subsection, clause or phrase of this ordinance is, for any reason,

held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City of Centreville hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, clauses or phrases be declared unconstitutional.

SECTION 7.2

REPEALER

Ordinance Number 2009-7-28 ADOPTED on 7/28/2009 is repealed in its entirety and replaced by this Ordinance. All other City Ordinances or parts thereof in conflict with the provisions of this Ordinance, in so far as they conflict, are hereby repealed.

SECTION 7.3

EFFECTIVE DATE OF ORDINANCE

This ordinance shall become effective immediately upon its publication one time in The Centreville Press, a newspaper of general circulation, published in the City of Centreville, and the City Clerk is hereby directed to cause a copy of said ordinance to be published one time in said newspaper.

ADOPTED AND APPROVED this the _____ day of April, 2012.

ATTEST:

Stephanie C. Scott
City Clerk

Tom Bamberg
Mayor

Ken Cottingham
Council Member

Don Mack
Council Member

Kenny Hicks
Council Member

Chuck Martin
Council Member

David Steele
Council Member